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# POLITICAL DISQUISITIONS, &c.

Μὲν τοι καὶ Οὗτος λέγει, κ. τ. λ. After treating of our duty to the Gods, it is proper to teach that which we owe to our Country. For our Country is, as it were, a *secondary* God, and the first and greatest Parent.—It is to be *preferred* to Parents, Wives, Children, Friends, and all things, the Gods only excepted.—And if our Country perishes, it is as impossible to save an *Individual*, as to preserve one of the fingers of a mortified hand.

HIERACL.

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Copy B. J. Gent<sup>le</sup> James Burgh  
under Burgh  
by Disquisition

see title page to V. 13.

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# POLITICAL DISQUISITIONS:

OR,

An ENQUIRY into public ERRORS,  
DEFECTS, and ABUSES. Illustrated by,  
and established upon FACTS and REMARKS  
extracted from a Variety of AUTHORS,  
ancient and modern.

CALCULATED

To draw the timely ATTENTION of GOVERN-  
MENT and PEOPLE to a due Consideration  
of the Necessity, and the Means, of RE-  
FORMING those ERRORS, DEFECTS,  
and ABUSES; of RESTORING the  
CONSTITUTION, and SAVING  
the STATE.

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VOLUME I.

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LONDON:

Printed for E. and C. DILLY, in the Poultry.  
MDCCLXXIV.

GENERAL PREFACE

EVER since I have been of age to distinguish  
between good and evil, I have observed  
that, in this blessed country of ours, the means  
power have pursued one uniform track of tax-  
ing and corrupting the people, and increasing  
court-influence in parliament, while the pretended  
patriots have exclaimed against those measures,  
at least till themselves got into power, and had  
an opportunity of carrying on the same plan of  
government; which system failed to do,  
while the constitution was drawing nearer to its  
ruin, and our country lay bleeding.  
I was sure, there was a right and a wrong  
in government, as in other things. I knew, that  
the spirit of the constitution, and the interest of  
the nation are fixed things, not to be altered  
backward and forward according as a Harley, a  
Walpole, or a Pelham, was in, or out of place.  
I saw much quibbling and fallacy in our party-  
squabbles, while I was certain, that there was  
a true and a false in politics, as in all other ob-  
jects of human understanding.

I determined to take the sense of mankind  
on the great and interesting points of  
liberty and property.  
Printed for H. and O. D. in the Strand.  
MDCCLXXII.

## GENERAL PREFACE.

**E**VER since I have been of age to distinguish between good and evil, I have observed, that, in this blessed country of ours, the men in power have pursued one uniform track of taxing and corrupting the people, and increasing court-influence in parliament, while the pretended patriots have exclaimed against those measures; at least till themselves got into power, and had an opportunity of carrying on the same plan of government; which they seldom failed to do, while the constitution was drawing nearer to its ruin, and our country lay bleeding.

I was sure, there was a right and a wrong in government, as in other things. I knew, that the spirit of the constitution, and the interest of the nation are fixed things, not to be altered backward and forward according as a *Hurley*, a *Walpole*, or a *Pelham*, was in, or out of place. I saw much quibbling and fallacy in our party-squabbles, while I was certain, that there was a true and a false in politics, as in all other objects of human understanding.

I determined to take the sense of mankind on the great and interesting points of government;

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and to see what experience teaches to expect from wise and upright, as well as from blundering and corrupt administration.

I applied the leisure hours of many years to the perusal of the best historical and political books, ancient and modern, and made collections to the quantity of many folio volumes.

I considered, that history is the inexhaustible mine, out of which political knowledge is to be brought up. This was observed by *Plato*, and in consequence he wrote his *REPUBLIC*, and other political works. *Aristotle's* *POLITICS* are full of wise remarks, drawn chiefly from history. *MONTESQUIEU* has collected his admirable work, *L'ESPRIT DES LOIX*, in great measure, from history. *Montaigne's* excellent book on *ANTIEN REPUBLIQUES* is wholly made out of the same materials. The abbé de *St. Pierre* labours in many parts of his *Ouvrages Politiques* (particularly in his *Essay, intitulé, Observations pour rendre, &c. Remarques sur l'usage de la République de Plutarque's Livres, rendus plus agréables, et plus profitables*) to show, that there are no means so effectual for communicating the most useful instructions to the minds of men, as making observations upon the facts recorded in history. *Alphonse V.* king of *Aragon*, was wont to say, the dead were the best counsellors. *Rollin* wrote his *ANTIEN* and *ROMAIN HISTOIRES* on purpose that he might have an opportunity

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tunity of making useful moral and political remarks upon the facts he was to relate. Our incomparable female historian has given the public a new history of the *Stuarts*, for the purpose of inculcating on the people of *Britain* the love of liberty and their country.

That no important historical fact, nor valuable political remark, or as few as possible, might escape me, I went through a general course of such reading, particularly the following, *viz.* **UNIVERSAL HISTORY, ANCIENT and MODERN, 68 volumes**, besides several of the *Greek* and *Latin* originals; *Rapin's*, and two or three other *English* histories; **MAGAZINES** of the last 10 years; **PARLIAMENTARY HISTORY, 24 volumes**; **DEBATES** of the **Lords** and **Commons, 30 volumes**; *Ancient and Modern Republics, 27 volumes*; the *Harleian MISCELLANY, 8 volumes*; *Somers's Tracts, 16 volumes*; the political writings of *Stanley, Locke, Harrington, Gordon, Trenchard, Bolingbroke, St. Pierre, Hume, Montesquieu, Blackstone, Mountague, Rymer's Fœdera, STATUTES at LARGE, STATE PAPERS, &c.* And it is my purpose to apply what may remain to me of life and leisure to the same study; and if I find any new matter interesting to my country, which I cannot insert in the body of this work, it shall be given the public in a supplemental volume.

Most writers have a sect or doctrine they would lay before the public, and they print authors on the same subject in order to strengthen their own assertions by the authority of established writers. But I read in order to collect what the best historical and political writers have said, and to lay *what* before the public, as decisive. And as I did not in collecting my materials, trust to indexes, but turned over page by page, many hundreds of volumes, the matter I collected came in such a disorderly and indigested heap. In cases where every reader would be supplied with a particular part, I gave him a separate volume. *Non bene junctarum disiectis semina rotundis* (they are not well joined, the seeds of round things). Other than in his own, though the author that I foresee I should have no small difficulty in arranging this chaos into a system. Now have I been able to please myself at last in this respect. For many articles are I doubt not referred to the heads, to which they most properly belong, and many articles relate to several heads. I hope, however, by means of a table at the end of the whole, to make up for this deficiency, and to improve the convenience of the reader. I have every where referred to the volume and page of my authorities with as much exactness as I could, that my readers may satisfy themselves, and if they think fit, may peruse what I have not quoted. Where I have put turned commas, I quote verbatim, and where I translate, or abridge.

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abridge the sense of my authors. I believe the  
 reader will find I have done so. When I  
 insert short extracts of any author, I do not  
 other matters, I do not insert them, but I do  
 distinguish them. But I read in every writer  
 the political principles, and I do not  
 equal authority. To select of them I appeal  
 account of the weight which their opinion has  
 justly obtained, rather than to introduce them  
 have expressed the sentiment I would inculcate  
 with such clearness and strength as must convince  
 every reasonable reader. In cases where it may  
 be supposed a writer may be partial to a particu-  
 lar sentiment, in order to give his  
 reader the same sentiment in the words of an-  
 other, rather than in his own, though the author  
 quoted may not be of the first rank for merit  
 and weight, I do not pretend to have extracted from my  
 authors, or to have applied all that may be found  
 in them interesting to this country. But the  
 number of facts and remarks I have collected  
 and applied, is so considerable, that I think the  
 collection must be valuable as tending to save  
 gentlemen, who would improve themselves in  
 political knowledge, a great deal of time and  
 labour, and as serving to bring together a  
 multitude of useful historical precedents, and  
 of wise reflections, scattered in many hundred  
 volumes, upon which materials alone it is  
 possible to found any solid political principles.

Every

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Every body has observed, that, on political subjects, the opinions of men are peculiarly vague, unsettled, and contradictory, because all men will, and in a free country, *ought* to judge of politics. There are indeed many particulars to be attended to, various views of things to be taken, and many comparisons to be made, in order to form just and steady principles of politics. And these employments of the mind requiring leisure, thought, and labour, it is not to be wondered, that few ever come to deserve, in a general and extensive manner, the character of sound politicians; though it is certain that every man of common sense may, if unbiassed, very clearly see wherein his country's great interest consists.

The same observation may be made on politics as one of the fathers has made on holy Scriptures. The lamb may wade in them, and the elephant swim.

The science of politics, [extensively considered] is as much superior to all others, says *S. Pierre*, as the whole is superior to a part. For it comprehends all human knowledge, and, to be a good politician, a man must have a general knowledge of all arts and sciences. On the other hand, it is observed by *Locke*, That politics [in the common and confined sense] are only common sense applied to national, instead of private concerns.

Some

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Some things are right in theory, for instance, but not in practice, and contrariwise. Hereditary succession to regal power applied to the test of reason, appears, *a priori*, consummately absurd. But elective monarchy, if we judge of it from its effects in Poland, is an inexhaustible fountain of mischief to a country. Some measures are in general salutary; but pursued at particular times, would ruin all. In distinguishing wisely lies the superiority of genius in statemen. There are no such mighty talents necessary for government as some, who pretend to them, without possessing them, would make us believe. Honest affections, and common qualifications, are sufficient, and the administration has always been best executed, and the public liberty best preserved, near the origin and rise of states, when plain sense, and common honesty alone governed public affairs, and the morals of men were not corrupted by riches and luxury, nor their understanding perverted by subtleties and distinctions. Great abilities have generally, if not always, been employed to mislead the honest unwary multitude, and draw them out of the plain paths of public virtue and public good. In a country which pretends to be free, and where, consequently, the people ought to have weight in the government, it is peculiarly necessary

fary that the people be possessed of just notions of the interest of their country, and be qualified to distinguish between those who are faithful to them, and those who betray them.

It must, I think, fill every generous mind with indignation, to see our good-natured countrymen abused over and over, from generation to generation, by the same stale dog-tricks repeatedly played upon them by a succession of pretended patriots, who, by these means, have screwed out their predecessors, and wormed themselves into their places. To teach the people a set of solid, political principles, the knowledge of which may make them proof against such gross abuse, is one great object of this publication.

If the people do not look with an eye of severe and unremitting jealousy, after their own great and weighty concerns, in whose hands must they leave them? The answer is, In those of a ministry. And what hope is there, that in such hands they will be safe? In these collections, under the article MINISTERS, it will too plainly appear, from history, that ministers have generally been a set of ambitious, or avaritious, grandees, who have, by all the worst kinds of arts, thrust themselves into power, in order to raise (as they call it) themselves and their families, and to fill their pockets. Entering into public stations with such views, it is to be supposed, that they would form to themselves an interest totally

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totally separate and diametrically contrary to that of the people, and that they would debauch the house of commons to join them against their constituents. And it is not therefore necessary, that the people should be qualified, and disposed to take care of their own interests, and secure themselves against so formidable a set of internal enemies.

None can be said to know things well, who do not know them in their beginnings, says Sir W. Temple.

All ought to know what is right, and what is wrong in public affairs, says St. Amant.

Not only the people, but our statesmen and legislators, may from the following collections, gain lights, and meet with hints, which, if properly pursued, may lead them to measures of a more generous kind, than that series of poor and temporary expedients, by which they have long made a shift to patch up matters, and barely keep the machine of government from bursting in ruins about them, while the efficiency of the constitution (as will too clearly appear in the sequel) is annihilated.

The ablest politicians have always been the most desirous of information. The great Galvani used to declare, that he thought his time well spent in perusing an hundred proposals for advancing the wealth, the commerce, and the

\* Pref. to HIST. ENG.

b Pref. to HIST. PARL.

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glory of *France*, if but one of them deserved to be encouraged.

If, on the contrary, any *Levathan* of power shews himself bent on other objects, than the public good, and with a brutal effrontery presumes publicly to turn into ridicule all that tends to national benefit, and to declare, as some statesmen have been known to do, That he knows of only one engine of government, *viz.* Finding every man's price, and giving it to him; it is to be hoped, that the independent people will find a hook for his jaws, and be able to drag him out of that sea of power, in which he wallows, that the vessel of the state may sail in safety. To point out those enemies of mankind, and to animate the independent people against them, is as great a service as can be done the public. Whether these collections will, in any degree, produce this effect, remains to be seen.

Some courtly readers may think I have put too much gall into my ink, when describing the political abuses, which disgrace our country: But Mr. *Gordon* says, 'No man can be too desirous of the glory and security of his country, nor too angry at its ill usage, nor too revengeful against those, who abuse and betray it.'

When Sir *J. Barnard, A. D. 1749*, was censured in the house of commons by Sir *W. Rogers*,

*Postscript* BRIT. TRUE SYSTEM, XIV.

\* CATO'S LETT. II. 49.

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for calling the *seamens bill* by its proper name, he answered as follows.

‘ I have always heard it represented as an instance of integrity when the tongue and heart move in concert, when the words are representations of the sentiments, and have therefore hitherto endeavoured to explain my arguments with perspicuity, and to impress my sentiments with force. I have thought it hypocrisy to treat stupidity with reverence, or honour nonsense with the ceremony of consultation. As knavery, so folly, that is not reclaimable, is to be speedily dispatched, business is to be freed from obstruction, and society from nuisance. Now, Sir, when I am censured by those whom I may offend by the use of terms correspondent with my ideas, I will not, by a tame and silent submission, give reason to suspect, that I am conscious of a fault, but will treat the accusation with open contempt, and shew no greater regard to the abettors than to the authors of absurdity. That decency is of great use in public debates, I shall readily allow; it may sometimes shelter folly from ridicule, and preserve villainy from public detection; nor is it ever more carefully supported than when measures are promoted, which nothing can preserve from contempt but the solemnity with which they are established. Decency is a proper circumstance; but liberty is the essence of parliamentary disquisitions. Liberty is the parent of truth: but truth and decency

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are sometimes at variance: all men and all propositions are to be treated here as they deserve; and there are many who have no claim either to respect or decency.

I expect the sons of slavery to cry out, 'The author is a republican, a discontented party-man, a jacobite, a papist.' So the Jews stigmatized the primitive christians, and the papists to this day the protestants with the odious appellation of heretics. The court-sycophants in *Charles I.*'s times called the friends of liberty puritans, and the *Walpolians* called the opposers of that arch-corruptor disaffected. But wisdom is justified of her children. Let our courtiers overthrow the facts and the reasonings in the following pages. If they cannot, they are to yield to truth, were it delivered to them even by a papist.

I would wish the reader to think I write in the spirit of a true independent whig, whose character *Mr. Gordon* describes as follows.

'An independent whig scorns all implicit faith in the state, as well as the church. The authority of names is nothing to him; he judges all men by their actions and behaviour, and hates a knave of his own party as much as he despises a fool of another. He consents not that any man or body of men shall do what they please. He claims a right of examining all publick measures, and if they deserve it, of censuring them. As he never saw much

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\* power possessed without some abuse, he takes  
 \* upon him to watch those that have it, and to  
 \* acquaint, or expect them, according as they  
 \* apply it to the good of their country, or their  
 \* own crooked purposes.

\* Others may allege, that a private gentleman,  
 who has never been employed in the state, is less  
 likely to be of service to the public by writing  
 on political subjects. *Let Harrington answer*  
 them.

\* It was in the time of *Alexander*, the greatest  
 prince and commander of his age, that *Aristotle*,  
 with scarce inferior applause and equal fame,  
 being a private man, wrote that excellent piece  
 of prudence in his cabinet, which is called his  
 \* *Politics*, going upon far other principles than  
 \* those of *Alexander's* government, which it has  
 \* long outlived. The like did *Titus Livius* in  
 \* the time of *Augustus*, *Sir Thomas More* in the  
 \* time of *Hen. VIII.* and *Machiavel* when *Italy*  
 \* was under princes that afforded him not the  
 \* ear. These works nevertheless are all of the  
 \* most esteemed and applauded in this kind;  
 \* nor have I found any man whose like endea-  
 \* vours have been persecuted since *Plato* by  
 \* *Dionysius*. I study not without great examples,  
 \* nor out of my calling; either arms, or this art,  
 \* being the proper trade of a gentleman. A  
 \* man may be intrusted with a ship, and a good

Vol. I

a

pilot

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' pilot too, yet not understand how to make sea  
 ' charts. To say that a man may not write of  
 ' government, except he be a magistrate, is as  
 ' absurd as to say, that a man may not make a  
 ' sea chart, unless he be a pilot. It is known,  
 ' that *Christopher Columbus* made a chart in his  
 ' cabinet, that found out the *Indies*. The magi-  
 ' strate, that was good at his steerage, never took  
 ' it ill of him that brought him a chart, seeing  
 ' whether he would use it or no, was at his own  
 ' choice; and if flatterers, being the worst sort  
 ' of crows, did not pick out the eyes of the  
 ' living, the ship of government at this day  
 ' throughout Christendom had not struck so often  
 ' as she has done. To treat of affairs, says  
 ' *Machiavel*, which as to the conduct of them  
 ' appertain to others, may be thought a great  
 ' boldness; but if I commit errors in writing,  
 ' these may be known without danger; whereas,  
 ' if they commit errors in acting, such come not  
 ' otherwise to be known than in the ruin of the  
 ' commonwealth.'

I do not pretend to enter far into political con-  
 troversy. Life is not long enough to dispute all  
 that is disputable in so boundless a subject as  
 politics, or to give the *pro* and *con* of all con-  
 troverted points.

If I sufficiently prove a point, as, That a  
 standing army is dangerous to liberty, That a  
 placemen

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placemen in the house of commons are inconsistent with the necessary independence of the representative body, &c. it signifies little what may be urged in defence of those abuses. For though, *Audi alteram partem*, Hear both sides, is a good maxim in law, yet there are cases, when that is needless. If there be sufficient positive proof, that the accused was at *Edinburgh* at the hour, in which a murdered person was killed at *London*, it can signify little to hear presumptions of his guilt, unless it were to give a declaimer an opportunity of shining.

As to the article of *style*, I am in hopes, every candid reader will allow, that the collector of such a variety of matter could not well spend time in gathering the flowers of *Parnassus*. Such a work as this, adorned with the flights of rhetoric, would resemble an anchor (would to God this work might prove an anchor to the tempest-tossed state!) ornamented with carving and gilding. And I cannot help remarking here, that, of late years, we seem to have passed from too great a negligence of style to an excess on the laboured and finical side. I have, in what of the following is written by me, aimed at perspicuity.

The worthlessness of the great is often not less *ridiculous* than it is odious. In remarking upon it, I have sometimes been forced to laugh, though with a heavy heart. This, as I indulge it but seldom, I hope the reader will excuse.

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*Pascal*, a grave author, if ever there was one, recommends the use of ridicule in opposing opinions too absurd to bear reasoning<sup>a</sup>.

*Shaftesbury* carries this point so far as to set up (very erroneously in my opinion) ridicule for a test of truth, instead of truth for a test of ridicule. Even the inspired writers have not disdained the use of ridicule<sup>b</sup>.

——*ridentem dicere verum*

*Quis vetat?*

——*ridiculum acri*

*Fortius et melius magnas plerumque secat res.*

HOR.

Though the subject of the intended subsequent volumes be the continuation of what is treated in this first, viz. an enquiry into public abuses, and means of correcting them; it is my intention, that this and every succeeding volume, be, in such a manner complete and independent, as to be fit to stand by itself without any of the others; as if each volume was a different book.

In this volume, for instance, I have endeavoured to shew, that our parliaments are, at present, upon such a foot, as to the inadequate state of representation, the enormous length of their period, and ministerial influence prevailing in them, that their efficiency for the good of the people is nearly annihilated, and the subversion  
of

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<sup>a</sup> PROVINC. LETTERS, Let. XI.

<sup>b</sup> SEC I KINGS, XVIII.

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of the constitution, and ruin of the state is (without timely reformation of these abuses) the consequence unavoidably to be expected.

If the candid reader finds, that all this is but too effectually proved in this first volume, then may this first volume be properly said to be complete, and independent on those intended to follow.

Those minute critics, whom Mr. *Pope* dignifies and distinguishes by the title of *Haberdashers* of small wares, may plume themselves upon finding some errors and inaccuracies in this work. In the list of boroughs, for instance, which send in the majority of the house of commons, two or three places are said to send 2 members each, whereas they send only one each. But in that calculation an error of 1000, or 10,000 voters is nothing toward invalidating the assertion to be proved: And the case will be the same in many other instances. If any mistakes of importance are pointed out to the author, he will thankfully acknowledge them. And if he should have occasion to publish a new edition, corrected, or improved, he will take care, that the *first* purchasers have the corrections and improvements *gratis*.

It never was my design to form a *system* of politics; therefore I did not hold myself obliged to treat of all political subjects.

On land war I have collected little, besides considerations shewing, that we have hardly ever

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had any occasion to intangle ourselves with the disputes between the powers on the continent, unless where we could employ our *naval* force with success.

Commerce is an immense field, into which I seldom enter; the comprehensive Dictionary on that subject by Mr. *Postlethwayte*, and History by my late esteemed friend Mr. *Anderson*, having superseded my labour. In these two books, and the original authors quoted in them, is contained a treasure of valuable remarks on that most interesting subject, to which every public-spirited person in the kingdom ought to attend.

The subjects treated of in this volume are drawn out in the following table of contents. If the public shews a disposition to receive favourably the remainder of what I have collected, it shall be published with all convenient speed; as there is but little wanting to fit it for the press. For the remaining volumes, I have by me large collections on the following heads, *viz.*

Of corruption in general; of degeneracy in this country; of manners, education, luxury, adultery, duelling, &c. of liberty in general; of various forms of government, their respective advantages and disadvantages; of *British* liberty; danger of the loss of liberty, and consequences; of juries, advantages and disadvantages; of law, and its grievances; of colonies, and the proper methods for encouraging them; of the army,  
and

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and dangers from it; advantages of a militia; the ruinous effects of continental connexions; the importance of the navy; the conduct of finances, comprehending taxes, customs, excises, national debt, stock-jobbing, &c.; a view of the arts of wicked ministers, and favourites; character and conduct of kings; and of lords; a display of priestcraft; importance of population, comprehending observations on provisions, monopolies, cultivation of land, &c.; of redress by the people, when government refuses it; of party; of patriotism, true and false; of national prejudice, and many other articles.

The subject of these collections, though political, goes beyond mere *temporal* concerns. It takes in education, manners, and characters, public and private. Those are but shallow politics, which do not comprehend sound morals; and the consequences of the moral characters of men reach into the unseen world.

Long Prefaces are seldom acceptable to readers. I shall therefore beg leave to break off here for the present, and to leave before the impartial tribunal of the public my following labours, not doubting but they will be in general received with the candor, which their *intention*, more than their *merit*, may claim.

OFFICIAL STATE OF

THE STATE OF NEW YORK  
IN SENATE  
JANUARY 1871  
REPORT  
OF THE  
COMMISSIONERS OF THE LAND OFFICE  
IN RESPONSE TO A RESOLUTION  
PASSED BY THE SENATE  
MAY 1869  
ALBANY: PUBLISHED BY THE STATE OF NEW YORK  
1871

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*Almon's DEBATES OF THE HOUSE OF COMMONS.*

**ACTA REGIA.**

**ARTICULI CLERI.**

*Amand (S.) HISTORY OF PARLIAMENT.*

**B**

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**CONSIDERATIONS ON THE CAUSES OF THE PRE-  
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D

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— OF THE COMMONS.

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*Elfyng ON PARLIAMENTS.*

F

FACTION DETECTED BY FACTS.

G

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*Grotius, DE ANTIQVITATE REIPUBL. BATAV.*

H

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*Hale's POWER OF PARLIAMENT.*

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HISTORICAL ESSAYS ON THE ENGLISH CONSTITUTION.

HARLEIAN MISCELLANY.

I

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K

*Kraistorawic, POLONIA DESCRIPTIO.*

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**M**

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## ERRATA.

- Page 11, Line 1st from the Bottom, for *Justin*, read  
*Corn. Nepos.*
- 35, — 2d from the Bottom, for *condision*, read  
*conduet.*
- 38, — 20, for 410,000, read 416,000.
- — 4th from the Bottom, for *right or privilege*,  
read *privilege.*
- 42, — 9, for *Higham Ferrers 2*, read *Higham  
Ferrers 1.*
- — 12, for *Banbury 2*, read *Banbury 1.*
- 44, — 18, for *Bewdley 2*, read *Bewdley 1.*
- 47, — 7, for 256, read 254.
- 49, — 1, for *probably 30,000*, read *probably  
20,000.*
- 118, — 5th from the Bottom, for *was. That*, read  
*was, That*
- 338, — 8th from the Bottom, for *right*, read  
*rightly.*
- [ — 407, — 16, for *endeaveured*, read *endeavoured.*

**POLITICAL**  
**DISQUISITIONS, &c.**

**BOOK I.**

**Of Government, briefly.**

**CHAP. I.**

*Government by Laws and Sanctions, why necessary.*

**I**F there be, in any region of the universe, an order of moral agents living in society, whose reason is strong, whose passions and inclinations are moderate, and whose dispositions are turned to virtue, to such an order of happy beings, legislation, administration, and police, with the endlessly various and complicated apparatus of politics, must be in a great measure superfluous. Did reason govern mankind, there would be little occasion for any other government, either monarchical, aristocratical, democratical, or mixed. But man, whom we dignify with the honourable title of *Rational*, being much more frequently influenced, in his proceedings, by supposed interest, by passion, by sensual appetite, by caprice, by any thing, by nothing,

than by reason; it has, in all civilized ages and countries, been found proper to frame laws and statutes fortified by sanctions, and to establish orders of men invested with authority to execute those laws, and inflict the deserved punishments upon the violators of them. By such means only has it been found possible to preserve the general peace and tranquillity. But, such is the perverse disposition of man, the most unruly of all animals, that this most useful institution has been generally debauched into an engine of oppression and tyranny over those, whom it was expressly and solely established to defend. And to such a degree has this evil prevailed, that in almost every age and country, the government has been the principal grievance of the people, as appears too dreadfully manifest, from the bloody and deformed page of history. For what is general history, but a view of the abuses of power committed by those, who have got it into their hands, to the subjugation, and destruction of the human species, to the ruin of the general peace and happiness, and turning the Almighty's fair and good world into a butchery of its inhabitants, for the gratification of the unbounded ambition of a few, who, in overthrowing the felicity of their fellow-creatures, have confounded their own?

That government only can be pronounced consistent with the design of all government, which allows to the governed the liberty of doing what, consistently with the general good, they may desire to do, and which only forbids their doing the contrary. Liberty does not exclude restraint; it only excludes unreasonable restraint. To determine precisely how far personal liberty is compatible with the general good, and of the propriety of social conduct in all cases, is a matter

matter of great extent, and demands the united wisdom of a whole people. And the *consent* of the whole people, as far as it can be obtained, is indispensably *necessary* to every law, by which the whole people are to be bound; else the whole people are enslaved to the *one*, or the *few*, who frame the laws for them.

Were a colony to emigrate from their native land, and settle in a new country, on what would they propose to bestow their chief attention? On securing the happiness of the *whole*? or on the aggrandizement of the governor? If the latter, all mankind would pronounce those colonists void of common sense. But in every absolute monarchy, the aggrandizement of the governor is the supreme object; and the happiness of the *people* is to yield to it. Were only a handful of friends to form themselves into one of those little societies we call Clubs; what would be their object? The advantage of the company, or the power of the chair-man?

Very shrewd was *Rumbald's* saying in *Charles II's* time, viz. 'He did not imagine, the Almighty intended, that the greatest part of mankind should come into the world with saddles on their backs, and bridles in their mouths, and a few ready booted and spurred to ride the rest to death.'

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C H A P. II.

*The People the Fountain of Authority, the Object of Government, and last Resource.*

**A**LL lawful authority, legislative, and executive, originates from the *people*. Power in the *people* is like light in the sun, native, original, inherent and

B 2

unlimited

unlimited by any thing human. In governors, it may be compared to the reflected light of the moon; for it is only borrowed, delegated, and limited by the intention of the people, whose it is, and to whom governors are to consider themselves as responsible, while the people are answerable only to God; themselves being the losers, if they pursue a false scheme of politics. Of which more hereafter.

As the people are the fountain of power, so are they the object of government, in such manner, that where the people are safe, the ends of government are answered, and where the people are sufferers by their governors, those governors have failed of the main design of their institution, and it is of no importance what other ends they may have answered.

As the people are the fountain of power, and object of government, so are they the last resource, when governors betray their trust. And happy is that people, who have originally so principled their constitution, that they themselves can without violence to it, lay hold of its power, wield it as they please, and turn it, when necessary, against those to whom it was entrusted, and who have exerted it to the prejudice of its original proprietors. Of all which more copiously hereafter.

*Legem majestatis reduxerat, &c.* says Tacitus. The antient *lex majestatis* among the Romans was intended against those who injured the state; and the *majesty*, in defence of which it was made, was the majesty of the people. But *Tiberius* perverted that salutary law into a protection for tyrants. So our court-sycophants cry out, on every remonstrance against misgovernment, 'Treason! The king is betrayed; the nation is ruined,' while nobody but themselves has the least thought of hurting the king, nor of ruining any thing, but that which, if let alone, will ruin the nation.

### Chap. III. DISQUISITIONS.

#### C H A P. III.

##### *Of Government by Representation.*

**G**overnment naturally divides itself into legislative and executive. No degree of *wisdom* is more than sufficient for the former. For the latter, nothing but well regulated *force* is wanted. To compose a system of wise and good laws is the utmost effort of human sagacity. To carry on the affairs of a nation, in a long-beaten track, requires only common sense and common diligence.

The most natural and simple idea of government is that of the people's assembling together in their *own persons*, for consulting, debating, enacting laws, and forming regulations, according to which all are to conduct themselves, and by which the general liberty, property, and safety are provided for. Accordingly this is the plan of government among the Indians in *America*, and other simple and uncultivated people; and is described by *Cæsar*, *Tacitus*, &c. as having been that of the antient *Gauls*, and *Germans*.

But such a scheme of government is thought only compatible with a small dominion. In great and populous countries, it being supposed impossible to assemble together, in a deliberative capacity, the whole body of the people, or even all the men of property, so as to avoid confusion, and to obtain the unconstrained opinion of a majority, it is thought necessary to have recourse to an adequate and freely elected *representation*.

It may be said, 'Why might not (in *Britain* for instance) the inhabitants of single counties meet together to deliberate on those subjects, which are now debated in parliament, and afterwards communicate

‘ the result of their consultation to a grand national assembly?’ The answer is, This would still be government by representation; because the national assembly must be the elected representatives of the people. Of all which more hereafter.

In planning a government by representation, the people ought to provide against their own *annihilation*. They ought to establish a regular and constitutional method of acting by and from *themselves*, without, or even in opposition to their *representatives*, if necessary. Our ancestors therefore were provident; but not provident enough. They set up parliaments, as a curb on *kings* and *ministers*; but they neglected to reserve to themselves a regular and constitutional method of exerting their power in curbing *parliaments*, when necessary. Of which I shall have occasion to treat more fully in the sequel.

#### CHAP. IV.

*Advantages of parliamentary Government, which have recommended it to many Nations.*

**T**HERE is no advantage within the reach of a particular people, that may not be obtained by parliamentary government in as effectual a manner, as if every inhabitant of the country were to deliberate and vote in person. But this supposes parliament free from all indirect influence, and to have no interest separate from the general good of the commonwealth.

In a country, like *Britain*, where a parliament is constitutionally the last resort, and where there lies no regular appeal to the *people*, the perversion of parliament from its original intention may prove utter ruin,

as

#### Chap. IV. DISQUISITIONS.

as leaving no constitutional means of redress, and compelling the people to take into their own hands the dangerous work of vindicating their liberties by force; which, in the concussion of jarring parties, may produce anarchy and end in tyranny. Of which more hereafter.

Nothing can be imagined more august than a numerous set of wise, free, and honest men sitting in consultation upon the means for securing the happiness of a whole people. Such was that most venerable antient assembly of the *Amphictyons*, which was the general tribunal of *Greece* for judging and deciding all controversies among the several states. So great was the respect in which the decisions of that council were held, that their sentences were seldom, or never, disputed, and that grievous wars were often terminated by their arbitration. The several states of *Greece*, in number about twelve, sent each to this grand court one, two, or three delegates, according to their respective importance <sup>a</sup>.

The *Panætolium* of the antient *Ætolians* seems to have been an assembly very much upon the plan of our house of commons. This convention met annually, or oftener, if necessity required. Representatives were sent to this assembly from all quarters, with instructions, from which they were not to deviate. In this *Panætolium* resided the whole majesty of the state. In it laws were made and repealed, alliances formed and renounced, peace and war declared, magistrates appointed, particularly the *σπάλινος*, or chief commander, for every year, &c. <sup>b</sup>.

The antient *Æthiopia* was a confederacy of states, like our modern *Holland*, or *Switzerland* <sup>c</sup>. Each of those

<sup>a</sup> *Ubb.* EMM. II. 277.

<sup>b</sup> *Ibid.* II. 251.

<sup>c</sup> *Ibid.* II. 228.

little states had its possessions, territories, and boundaries; each had its senate, or assembly, its magistrates and judges; and every state sent deputies to the general convention, and had equal weight in all determinations<sup>a</sup>. And most of the neighbouring states, which, moved by fear of danger, acceded to this confederacy, had reason to felicitate themselves.

The government of the antient commonwealths of *Italy*, before the *Roman* was formed, was much upon a free or parliamentary plan.

The *Israelitish* government was of the free, or parliamentary kind. The people's demanding a change of the form of their government into monarchical, was directly opposite to their constitution, and to the divine intention. Which, by the bye, shews the absurdity of the doctrine of regal government's being of divine original. Of which more elsewhere.

The republic of *Lycia* was a confederacy of towns, which they ranged into three classes according to their respective importance. To the cities of the first rank they allowed three votes each in the general council; to those of the second two, and to those of the third one. "For reason taught them, that they, who have the most at stake, ought to have the greatest weight in all consultations concerning the common good<sup>b</sup>."

*Sparta*, as modelled by the good and wise *Lycurgus*, was a republican, or parliamentary government, though of a mixed kind; for there were kings, a senate elected by the people, and an assembly of the people, the consent of which last was necessary to the establishment of a law, says *Plutarch*<sup>c</sup>. *Τα δὲ πλεῖστα ἀθροισθέντος,*

<sup>a</sup> *Ubb. EMM. II. 230.*

<sup>b</sup> *Ibid. II. 309.*

<sup>c</sup> *VIT. LYCURG. sub init.*

#### Chap. IV. DISQUISITIONS.

§. 7. *Nor* was this mixture an objection against the *Spartan* government's being of the free, or parliamentary kind. The *Theban*, the *Dutch*, the *English*, and other free, or parliamentary governments have all been of the mixed sort, having admitted kings, or stadtholders, or other chiefs. There has indeed hardly ever been known a pure commonwealth; though many an unmixed monarchy, or tyranny. The *English* republic, which was demolished by the villainous *Cromwel*, was one of the most unmixed, that ever was known. It was a true government by representation; of which more hereafter. In the mean while, now I am mentioning republican government, I take this opportunity of entering an express caveat against all accusations of a desire to establish republican principles. I do not think a friend to this nation is obliged to promote a change in the constitution. The present form of government by king, lords, and commons, if it could be restored to its true spirit and efficiency, might be made to yield all the liberty, and all the happiness, of which a great and good people are capable in this world. Therefore I do not think it worth while to hazard any considerable commotion for the sake merely of changing the constitution from limited monarchy to republican government, though I hardly know the risque it would not be worth while to run for the sake of changing our government from *corrupt* to *incorrupt*. But to return.

*Athens*, as reformed by *Solen*, was a free, or parliamentary state, consisting of a senate of 400 elected by the people, besides the court of *Areopagus*. The poorest of the people had a right of speaking and

and voting in the *ἐκκλησία*, or assembly of the people, or, if you please, house of commons. The people indeed possessed, by this means, a degree of power above the reach of such as the vulgar were in those ancient unimproved ages, before the art of printing had made knowledge universal as in our times. The errors in the *Athenian* state were in the first concoction. Had *Solon* been concerned in the original framing of it, that state would have been longer-lived. He confessed, that all he could do was, To give the *Athenians* the best laws their degeneracy could bear<sup>a</sup>.

<sup>a</sup> *Athens* consisted, says *Harrington*<sup>b</sup>, of the senate of the bean proposing, of the church or assembly of the people resolving, and too often debating, which was the ruin of it; as also of the senate of the *Areopagites*, the 9 *archons*, with divers other magistrates, executing. *Lacedæmon* consisted of the senate proposing, of the church or congregation of the people resolving only, and never debating, which was the long life of it; and of the two kings, the court of the *ephori*, with diverse other magistrates, executing. *Carthage* consisted of the senate proposing, and sometimes resolving; of the people resolving, and sometimes debating too; for which fault she was reprehended by *Aristotle*, and she had her *suffetes*, and her hundred men, with other magistrates, executing. *Rome* consisted of the senate proposing, the *concio* or people resolving, and too often debating, which caused her storms; as also of the consuls, censors, ædiles, tribunes, prætors, quæstors, and other magistrates, executing. *Venice* consists of the senate or *pregati*

<sup>a</sup> *Plut. VIT. SOLON.*

<sup>b</sup> *OCEANA, 51.*

#### Chap. IV. DISQUISITIONS.

\* *pregati* proposing, and sometimes resolving too; of  
 \* the great council, or assembly of the people, in  
 \* whom the result is constitutively, as also of the  
 \* doge, the signory, the censors, the dieci, the qua-  
 \* zancies, and other magistrates, executing. The  
 \* proceeding of the commonwealths of *Switzerland*  
 \* and *Holland* is of a like nature, though after a  
 \* more obscure manner: for the sovereinties, whether  
 \* cantons, provinces, or cities, which are the people,  
 \* send their deputies commissioned and instructed by  
 \* themselves (wherein they reserve the result in their  
 \* own power) to the provincial or general conven-  
 \* tion or senate, when the deputies debate, but have  
 \* no other power of result than what was conferred  
 \* upon them by the people, or is farther conferred  
 \* by the same upon farther occasion. And for the  
 \* executive part they have magistrates or judges in  
 \* every canton, province, or city, besides those which  
 \* are more public and relate to the league, as for  
 \* adjusting controversies between one canton, pro-  
 \* vince, or city, and another; or the like between  
 \* such persons as are not of the same canton, pro-  
 \* vince, or city.\*

*Thebes*, in *Bœotia*, antiently a monarchy, was after-  
 wards changed to a republic, and was a free or parli-  
 ammentary government in the times of *Pelopidas* and  
*Epaminondas*, who raised it to great eminence among  
 the states of those times, and at whose demise it sunk  
 again into its former *obscurity*.\*

*Carthage* was undoubtedly a free, or parliamen-  
 tary state, without a king; though I do not know,  
 that we have a particular account of its constitution  
 from

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\* *Justin. VIT. PELOP. et EPAMIN. Plut. in PELOP.*

from any antient author, *Greek*, or *Latin*; for of the country itself we have not so much as the name of a writer. We read of their having a senate, and of a fatal division among the people by the *Hannonian* faction, which ruined *Hannibal's* schemes, and prevented his making a total conquest of *Rome* after the battle of *Cannæ* <sup>a</sup>.

The *Roman* government down to *Julius Caesar* was parliamentary. Their senate may be compared to our house of peers, as the senators sat for life, and in their own right. And though the *Romans* had nothing of representation comparable to our house of commons, supposing our house of commons incorrupt and independent; yet representation, or giving the people their weight in government, was what they intended by their tribunes of the people, and by dividing the people into *curiæ*, *comitia*, tribes, &c. The *Roman* republic was but half-formed, and the formed part was the least valuable. We read often of the tribunes sending the consuls to prison; and, we find the senate depriving the tribunes of their office <sup>b</sup>. This shews the *Roman* republic to have been miserably ill-balanced, when the senate was sometimes above the tribunes, and the tribunes sometimes above the consuls. *Romulus* had originally divided the people into three tribes, and each of these into ten *curiæ*. He chose one senator himself, and ordered each of the tribes, and *curiæ* to choose three, which amounted to 100 in all. None but patricians could be senators. Thus 99 of the 100 senators owed their seats to the people. When the 100 *Sabines* were added, they were all patricians,

<sup>a</sup> See the *Roman* Historians of that period.

<sup>b</sup> ANT. UNIV. HIST. XIII. p. 143.

cians, and all chosen by the people. When *Tarquinus Priscus*, to ingratiate himself with the people at his accession, chose 100 senators out of their body; he ennobled them first. The number of the senators probably continued to be about 300 till the time of *Sylla*, 530 years from *Tarquinus Priscus*. *Sylla* probably increased the number (by bringing in men for his purpose) to above 400. But these additional senators were still chosen by the people. *Cæsar*, to strengthen his party, increased the senate to 900, introducing all sorts of men, as new-made citizens, half-barbarous *Gauls*, soldiers, and sons of freed-men. It would be ridiculous to think of the people's having any hand in this transaction. For in *Cæsar's* time the army ruled all. And lastly the triumvirs increased the senate to above 1000. In the imperial times it is of no consequence what the number of the senate was; because all power was then engrossed by the emperors, and the senate was an empty name; that mighty senate, of which *Cineas*, *Pyrrhus's* ambassador, said, it seemed to him an assembly of kings; that senate, which was for ages the scourge of tyrants, was then become a mere *ergastulum* of slaves, the drudges, the flatterers, and supporters of tyrants.

After *Coriolanus's* time, *A. U. C.* 263, the plebeians became eligible, without being ennobled, into the senate. And those magistrates, who were called *curule*, had the privilege, during a certain time, of giving their votes in the senate, though they were not senators.

The *Roman* senators voted either by a general Aye or No, sitting in their places; or by separately declaring each his *sententia*, as the *censors* called their names; or by dividing, those for the question going to one side  
of

of the house, and those against it to the other, which they called; *ire pedibus in sententiam tuam*, &c. and those senators, who only divided, without giving their reasons, were called *senatores peditarii* \*.

The *Roman* republic was indeed never finished. For the caprice of the multitude was left to operate at random. So that every popular demagogue had it in his power to spirit up the multitude to whatever pitch of madness might suit his ambitious, or interested views. Nor was the general sense of the *Roman* people known by the fluctuating violence of the mob of the capital, who were often deceived, and often influenced, by largesses of corn, or by shews of gladiators; but who had more weight in the government, than the consuls, senate, and all the citizens of *Italy* and the other *Roman* dominions. The error consisted in the want of a regular subdivision, and representation of the people. The body of the people of property ought to have in their own hands the government of themselves. But the multitude in one great and debauched city ought not to be considered as the body of the people. The tribunitial power was too great. The appeals to the people at large, and their voting at large, was what first opened a door for the contests of *Sylla* and *Marius*, and of *Cæsar* and *Pompey*, which overset liberty.

The great error in the *Roman* republic was, That the people, or plebeians were not represented, but voted in a collective body; which occasioned continual tumult and confusion. They assembled in innumerable multitudes, and forced their tribunes upon what-

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\* *Dion. Halic. Dion. Cass. Liv. Appian, Vell. Paterc. Sueton. pass.*

whatever their licentious fancy dictated. They had no reading; consequently were very ignorant; and often chose the worst measure, when the senators, if left to themselves, would have chosen much better for them.

The *Gauls* to *Pharamond's* time, who died *A. D.* 428, managed all affairs in the assembly of the people, where they set up and dethroned their kings at their pleasure.

The power of the *French* kings was antiently restrained within very narrow limits. Liberty was the same in *France*, as in all the *Gothic* states. The power was in the assembly of the states. The frequent calling of general assemblies was thought inconvenient. Therefore they had standing committees, which gave rise to the parliaments of *France*. The parliament of *Paris* first attended the king, then was fixed to *Paris*, for convenience. They formerly judged the peers and great men of the kingdom, over whom the king had no power, because they were to be tried by their peers. All the great officers of state took their oaths in parliament; not bound personally to the king, but in his political capacity. Laws had no force, unless they registered them. The efficiency of all those checks is now lost. No assembly of the states now heard of. Parliaments are only the shadow of what they were. Their tyrant has the liberties of the subject entirely at his mercy; imprisons whom he pleases; sets up what judges he pleases, to try whom he pleases, and convict them of what crime he pleases. The great officers take the oaths to him, and are responsible to him, and not at all, as formerly, to the people. This is the work of *Richelieu*.\*

Advices

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\* *MOD. UNIV. HIST.* XLIII. p. 413.

Advices from *France*, Jan. 1773, signify, that the princes of the blood have yielded to the court; and that the parliaments of *France* will be abolished to the very name: the thing has long been lost. This abolition has accordingly taken place since.

The three estates of *France*, in their times of freedom, were, 1. The clergy (they will always be uppermost.) 2. The nobility. 3. The deputies of the provinces.

According to the original system of the *Franks*, every free subject was entituled to some share in government, either in person, or by representation<sup>a</sup>.

Frequent conventions of the states of *Denmark*, when that country was free, were a fundamental article of the *Danish* constitution. They consulted concerning matters of government, laws, peace and war, taxes, and promotions to offices<sup>b</sup>.

The *Swedish* government has always been upon a parliamentary, or free plan. In that country, till the revolution in 1772, four estates made the laws, viz. 1000 noblesse, 100 ecclesiastics (just 100 too many) 150 citizens, and about 250 peasants<sup>c</sup>. They had no nobility before A. D. 1560. *Voltaire* observes, that *Charles XI.* was the first absolute prince in *Sweden*, and *Charles XII.* his grandson, the last.

<sup>c</sup> In *Sweden*, the supreme power is vested, not in the king, but the senate, which is no other than a committee of twelve chosen out of the estates, or parliament of the kingdom, to controul the king in all actions, which they dislike<sup>d</sup>.

<sup>e</sup> The

<sup>a</sup> MOD. UNIV. HIST. XXIII. 396.

<sup>b</sup> Ibid. XXXII. 18.

<sup>c</sup> Vol. Ess. SUR L'HIST. IV. 241.

<sup>d</sup> Clutterbuck's Speech, Tind. CONTIN. VIII. 215.

\* The *Bolognese*, A. D. 1200; had lively ideas of the *Roman* republic. They had consuls, whose powers were like those of *Rome*; and many inferior magistrates, whom they seldom suffered to continue in power above a year <sup>a</sup>. In a time of public danger they continued them several years; if they thought them wise and faithful <sup>b</sup>.

*Marseilles*, like *Holland*, was a free republic planted by a set of brave people flying from slavery <sup>c</sup>.

*Grotius* <sup>d</sup> celebrates the *Dutch*, for that, like the antient *Romans*, they have always been against kingly government. That in the times of *Cæsar*, the commands of the people had as much power over the *principes*, or elected chiefs, as theirs over the people, *Non minus in ipsos juris*, &c. <sup>e</sup> *Grotius* quotes *Tacitus* <sup>f</sup>, who observes, that all the *Germans* were for liberty, and that by liberty the *Romans* meant republican government, is evident from *Tacitus's* expression, *Urbem Romam a principio*, &c. <sup>g</sup> *Rome* was originally under kingly government. Liberty (in opposition to monarchy) <sup>h</sup> and the consular power were established by *Brutus*; and from *Lucan* <sup>i</sup>; *Libertas ultra Tanaïm*, &c. Liberty (after the decisive battle) <sup>j</sup> fled beyond the *Don* and the *Rhine*; and what is now possessed by the *German* and *Scythian*, so often obtained at the expence of our blood, is denied to us.

The *Spanish* cortes were much the same as our parliaments, composed of prelates, masters of the military

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orders,

<sup>a</sup> MOD. UNIV. HIST. xxxvii. 3.

<sup>b</sup> Ibid. 14.

<sup>c</sup> Ubb. EMM. II. 285.

<sup>d</sup> DE ANTIQU. REIP. BATAV. cap. II.

<sup>e</sup> Cæs. BELL. GALL. v.

<sup>f</sup> DE MORIB. GERM.

<sup>g</sup> PHARS. VII.

orders, nobles, and representatives sent from the cities, and towns (no mention of counties). No act could pass unless they were *unanimous* as our juries. And the acts must be confirmed by the king. They were assembled by summons from the king and privy council, and dissolved by order of the president of the council. But a committee of eight sat still. They have been rarely called since 1647. Their last sitting was in 1713. They were laid aside by *Charles V.* because they would grant no money, and because he found he could raise money without them. The *Visigoths* governed in *Spain* about 350 years, terminating about *A. D.* 700. During that period, *Spain* was very respectable. Her government was free; her church more pure than others, from popish superstition, rejecting the pope's supremacy. Her monarchs, elective and limited, as in almost all the *Gothic* states, commanded the army, called general councils, proposed the subjects to be considered, gave their sanction to laws, gave out edicts merely executive, coined money, gave employments, conferred honours; but all under correction of the general council, who could set aside any of the king's acts\*. All the northern nations had such a mixed form of government, in which no money could be raised, nor laws made, or repealed, but with their consent. *Spain* is now under absolute government, occasioned by the timidity of the *Castilians*, who finally gave up the cause of liberty on a defeat in war, between them and *Charles V.* which lasted only two years (the *Dutch* fought for liberty 70 years). *Charles* told the cortes, he wanted them to grant him supplies first, and then he would

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\* *MOD. UNIV. HIST.* xix. 480, 482, 484, 486.

would pass their bills. The wretched *Castilians* gave up the point, and voted their tyrant, whom they ought to have destroyed, almost half a million sterling. Such is the *inertia* of mankind <sup>a</sup>.

The cortes of *Portugal* have long since sold to the crown their part in the legislature. Their government, which was once free and parliamentary, is now unmixed despotism, and their cortes like the parliaments of *France* <sup>b</sup>. The ceremony of giving *Don Alonzo I.* of *Portugal* the kingdom, by the public approbation of the people, *A. D.* 1140, exhibited a glorious spirit in both king and people <sup>c</sup>.

The *Helvetic* confederacy is the most considerable republican or parliamentary government, after the *Venetian* <sup>d</sup>. The *Swiss* cantons are not, properly speaking, a republic, but an union of several republics. But they have a common assembly, in which all matters interesting to the whole community are debated; whatever is there determined by the majority, binds the whole; they all agree in making peace, and declaring war; and the laws and customs, which prevail throughout the *Swiss* cantons, are (excepting the difference in religion between the protestant and popish provinces) nearly the same <sup>e</sup>. There are, indeed, some differences both in constitution and administration. But so are there differences between the three kingdoms, and the numerous colonies, which compose the *British* dominion; nay there are differences between the customs in the several counties of *England*. All this shews, contrary to a common prejudice,

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dice,

<sup>a</sup> *MOD. UNIV. HIST.* XLIII. 365.

<sup>b</sup> *Ibid.* 389.

<sup>c</sup> *Ibid.* XXII. 25.

<sup>d</sup> *Simleri, HELV. DESCR.* p. 25.

<sup>e</sup> *Ibid.* 27.

dice, that the largest dominions, as well as the smallest, may be administered in the republican form with as much success as in the monarchical. The *Roman* republic took in a much greater extent of dominion than many modern kingdoms put together; and was, with all its imperfections, as well administered, to say the least, as most monarchies have been. But this is matter of speculation merely.

The diet of *Poland* is constitutionally composed of king, senate, bishops, and deputies of the landholders of every palatinate. Every owner of three acres of land has a vote for a member. And the majority carries every point. But in the general diet, unanimity is necessary. Every palatinate (without regard to the towns in it) sends three members. The indigent gentry are always directed by some person of superior fortune, influence, or ability. The diet of *Poland* consists of an upper and lower house. The upper house contains the senate, the superior clergy, and the great officers; the lower the representatives of the palatinates<sup>a</sup>. An edict by king *Jagellon*, who reigned in the 16th century, found contrary to his coronation oath, was hewn in pieces before his face by the *Polish* sabres<sup>b</sup>. The *Polish* nobility will not give up the privilege of electing their kings, though they always elect the hereditary successor<sup>c</sup>. By this they impress their kings with the idea of obligation to their subjects; and at the same time, the heir to the crown is properly educated.

When

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<sup>a</sup> MOD. UNIV. HIST. XXXIV. 10.      <sup>b</sup> Ibid. 523.

<sup>c</sup> *Stanisl. Krzyszanowicz*, POLON. DESCR. p. 27.

## Chap. IV. DISQUISITIONS.

When liberty began to dawn (says *Voltaire*) <sup>a</sup> about A. D. 1300, the states general of *France*, the parliament of *England*, the states of *Arragon* and *Hungary*, and the diets of the *German* empire were all nearly on the same foot, as to the privileges and consequence of the third estate. [We have seen some difference arise since the above period. Let *Britain* take care, lest she come into the condition, into which those states are fallen.]

*France* (says the same author) <sup>b</sup> was once governed as *England* is now. The kings assembled the states. In the year 1355, they made their king *John* sign a charter much like the *Magna Charta* of *England*.

There was scarce an absolute prince in *Europe*, about the 13th century. But the nobles were tyrants, and the feudal tenures universal <sup>c</sup>. In short, to use the words of the great *Alg. Sidney* <sup>d</sup>, 'In *Germany*, ' *France*, *Spain*, *Sweden*, *Denmark*, *Poland*, *Hungary*, ' *Bohemia*, *Scotland*, *England*, and generally all the ' nations, that have lived under the gothic polity, this ' supreme power has been in their general assemblies ' under the name of diets, cortes, senates, parliaments, &c.

<sup>a</sup> Ess. SUR. L'HIST. II. 189.

<sup>b</sup> Ibid. 122.

<sup>c</sup> MOD. UNIV. HIST. XLIII. 531.

<sup>d</sup> ON GOV. p. 378.

## BOOK II.

## Of Parliaments.

## CHAP. I.

*Parliaments irregular and deficient, 1, By Establishment. 2, By Abuse. By Establishment they are an inadequate Representation of the People, and their Period is too long. By Abuse they are corrupt.*

Parliaments in England have been of very fluctuating importance in different ages. It was long before they got to what might be called a bearing. And even now, there is in them infinitely more wrong than right, as will too manifestly appear by what follows.

Parliaments are irregular and deficient, 1, by establishment; and 2, by abuse. When I distinguish between the irregularities and deficiencies in our parliaments by establishment, and by abuse, I mean by the former such irregularities and deficiencies as are known and avowed, as their too great length, their being an inadequate representation, &c. By the latter, I mean those which have insensibly crept in, and prevail through connivance, as corruption at elections, and in the house, &c.

It is justly remarked by Mr. Hume, That whatever, in government, is publicly allowed at any particular period,

period, may be said to be constitutional at that period, especially (it may be added) if it has been regularly and openly introduced and established by approbation of the majority of those, who have the power of establishing it.

The lengthening of parliaments from annual to triennial, and from triennial to septennial, is undoubtedly an *abuse* (of which more hereafter) but being avowedly effected at first, and allowed since, this abuse becomes constitutional.

But the buying of boroughs, and of votes in the house of commons, was never fairly established, nor openly avowed as a regular proceeding, and is therefore a mere abuse, and not a constitutional error.

Almost all political establishments have been the creatures of chance rather than of wisdom. There are few instances of a people forming for themselves a constitution from the foundation. Therefore it is impossible to say what would be the effect of a perfect commonwealth; there being no example of such a phenomenon. The common course of those matters has been, that either a people have emigrated from an old established government, and have wrought into their new system of politics the errors and deficiencies, which had crept into the old; or a few wise and good men have undertaken to repair and patch up a crazy constitution; and then, like *Solon*, they found themselves obliged to be content with as good a constitution as the people would bear, instead of such an one as a wise legislator could frame. And in establishing this constitution, they have been obliged to yield to the violence of party, and the blindness of prejudice, and to suffer various particulars to be established contrary to their own better judgment. So that the

machine of government being pushed one way by one party, and the contrary by another, is at last pushed into a bog, or set on the edge of a precipice, and left out of the perpendicular, like the hanging tower of *Pisa*, to be propped and shored up by posterity. This is in part the case of our own constitution, especially with respect to the *commons* house of parliament. If there be in a ship at sea ten leaks, to stop nine of them will not put the crew in a state of safety; though they must perhaps be stopped one after another, they must *all* be stopped, else the consequence is obvious;

*Accipiet inimicum imbrem, &c.*

VIRG.

There are several frightful leaks in the great vessel of the *British* state, which, if they be not *all* stopped, must sink it.

The grievances requiring redress, which respect parliament, are chiefly these: 1. By establishment they are in no respect a representation of the property of the people. 2. Their period is, likewise by establishment, of an enormous length. 3. They are, by abuse, corrupt, or fallen under an undue influence both as to the election of members, and their voting in the house.

## CHAP. II.

### *Inadequate Representation, its Disadvantages.*

**W**HEN our ancestors first proposed government by representation, it is certain, they intended *adequate* representation; for no other deserves the name, or answers the end.

Every

‘ Every *Englishman* (says Sir *Thomas Smith*<sup>a</sup>) is intended to be present in parliament, either in person, or by procuration and attorney, of what pre-eminence, state, dignity, or quality soever he be, from the prince to the lowest person of *England*. And the consent of the parliament is taken to be every man’s consent.’

‘ In a free state (says judge *Blackstone*<sup>b</sup>) every man, who is supposed a free agent (that is, not, through poverty, absolutely dependent on the will of another) ought to be, in some measure, his own governor, and therefore a branch, at least, of the legislative power ought to reside in the whole body of the people.’

It is evident, that inadequate representation in parliament is utterly inconsistent with the idea of *free* government. For a people governed contrary to their inclination, or by persons, to whom they have given no commission for that purpose, are, in the properest sense of the phrase, an *enslaved people*, if ever there was an enslaved people.

‘ *Il est essentiel de fixer, &c.* It is necessary’ (says the excellent *Montesquieu*<sup>c</sup>) ‘ to fix the number of citizens who are to vote; otherwise it is uncertain whether the people, or only a part of the people, have given their sense.’ (We know full well, that it is but a very small part of the people of *England* whose votes fill the house of representatives, and that the votes of both electors and members are most barefacedly influenced.) ‘ At *Sparta*, the sense of the people was collected from a suffrage of 10,000. At *Rome*, this was

<sup>a</sup> CQM. WEALTH OF ENG. 37.

<sup>b</sup> *Blackst.* COMM. I. 158.

<sup>c</sup> *Montesq.* L’ESPR. DES LOIX, I. 13.

‘was neglected; which was one great cause of its ruin.’

To compare great things with small, could the *East India* company be said to be established on a proper foot, if 100 proprietors, whose stock amounted in all to 5,000 *l.* had the power of choosing the court of directors against the votes of 5000 proprietors, whose stock was worth 5,000,000 *l.* and if the court of directors, when chosen, possessed absolute power without appeal, and thought themselves responsible to no set of men upon earth? Or if a friendly society consisting of 100 members found that the whole power of the society was engrossed by 3 members; and that the others could obtain nothing they wanted, or in the manner they wished to have it; could this society be, with any shadow of propriety, called free? That parliamentary representation on its present foot, is as inconsistent with liberty, will appear but too clearly in the sequel.

That a *part* of the people, a *small* part of the people, and the most needy and *dependent* part of the people, should engross the power of electing legislators, and deprive the majority, and the independent part of the people of their right, which is, to choose legislators for themselves and the minority and dependent part of the people, is the grossest injustice that can be imagined.

Every government, to have a reasonable expectation of permanency, ought to be founded in *truth*, *justice*, and the *reason* of things. Our admirable constitution, the envy of *Europe*, is founded in *injustice*. Eight hundred individuals rule all, themselves accountable to none. Of these about 300 are *born* rulers, whether

whether qualified or not. Of the others, a great many are *said* to be elected by a handful of beggars instead of the number and property, who have the right to be the electors. And of these pretended electors, the greatest part are *obliged* to choose the person nominated by some lord, or by the minister. Instead of the power's returning annually into the hands of the people, or, to speak properly of the boroughs, the lengthening of parliament to septennial, has deprived them of six parts in seven of their power; and if the power returned annually, as it ought, *all the people* would still have reason to complain, but the *handful*, who vote the members into the house.

In consequence of the inadequate state of representation, the sense of the people may be grossly misapprehended, or misrepresented, and it may turn out to be of very little consequence, that members were willing to obey the instructions of their constituents; because that would not be obeying the general sense of the people. For the people are not their constituents. The people of *England* are the innumerable multitude which fills, like one continued city, a great part of *Middlesex*, *Kent* and *Surry*; the countless inhabitants of the vast ridings of *Yorkshire*, the multitudes, who swarm in the cities and great towns of *Bristol*, *Liverpool*, *Manchester*, *Birmingham*, *Ely*, and others; some of which places have no representatives at all, and the rest are unequally represented. These places comprehend the greatest part of the people. Whereas the instructions would be sent from the hungry boroughs of *Cornwall*, *Devonshire*, &c. In short, the sense of the constituents would be, at best, only the sense of a few thousands; whereas it ought to be that of several hundreds

dreds of thousands, as will be very clearly made out by and by.

‘ Neither in *Scotland* nor *England* (says *Rapin* \*) are  
 ‘ the resolutions of parliament to be always considered  
 ‘ as the sense of the nation. It is a defect of the  
 ‘ constitution of both houses, that the members of  
 ‘ parliament receive no instructions from their electors.  
 ‘ The moment they are met, they become masters  
 ‘ and sovereigns of those by whom they are chosen,  
 ‘ and palm upon the nation their own decisions for  
 ‘ those of the public, though they are often contrary  
 ‘ to the sentiments and interests of the people they  
 ‘ represent. Instances are so frequent, that I need  
 ‘ not stay to prove what I advance.’ ‘ It must not  
 ‘ be imagined (says he \*) that then, (in the times of  
 ‘ *Henry VIII.*) ‘ any more than at this day, whatever  
 ‘ the parliament did was agreeable to the general  
 ‘ opinion of the nation. The representative was  
 ‘ chosen as at present, without any instruction con-  
 ‘ cerning the points to be debated in parliament,  
 ‘ nay without the people’s knowing any thing of  
 ‘ them. Thus the house of commons had, as I  
 ‘ may say, an unlimited power to determine by a  
 ‘ majority of votes, with the concurrence of the lords  
 ‘ and assent of the king, what they deemed proper  
 ‘ for the welfare of the kingdom.’ [In our times (the  
 ‘ present always excepted) what they deem proper for  
 ‘ the welfare of the junto.] ‘ There was no necessity  
 ‘ therefore, in order to obtain what the court desired,  
 ‘ of having the consent of the people, but only the  
 ‘ majority of voices in both houses. Hence it is easy  
 ‘ to conceive, that the court used all imaginable means  
 ‘ to cause such members to be elected, as were in  
 ‘ their

\* *Rapin*, II. 583.

\* *Ibid.* II. 9.

‘ their sentiments. This is now, and ever will be  
 ‘ practised, till some cure is found for this inconve-  
 ‘ nience. I call it an inconvenience, because it hap-  
 ‘ pens sometimes that the parliament passes acts con-  
 ‘ trary to the general opinion of the nation.’

Under a whig ministry (says the same author<sup>a</sup>) we see a whig parliament chosen, under a tory ministry a tory parliament. ‘ It has frequently happened, that the  
 ‘ resolutions of the lower house have been directly con-  
 ‘ trary to the sentiments of the people, whom they  
 ‘ represented. So it is not the people, or commons of  
 ‘ *England* that share the legislative power with the king  
 ‘ and peers; but the representatives, who enjoy a pri-  
 ‘ vilege, which belongs only to the people in gene-  
 ‘ ral, to whom however they are not accountable for  
 ‘ their conduct. All they can suffer, if they have  
 ‘ acted in parliament contrary to the sense of their  
 ‘ county, or borough, is not to be elected again<sup>b</sup>.’

Parliament under *Henry VIII.* confirmed the demolition of the papal power over *England*, and the dissolution of the religious houses; under *Edward VI.* demolished popery; under *Mary*, set it up again; under *Elizabeth*, overthrew it a second time. So we have seen parliament stamp the *Americans*, then unstamp them, and then tax them in a new manner. Parliament has not, in these sudden doings and undoings, followed the sense of the people. The unsteady people are not so unsteady as this comes to. In former times, parliament was too much overawed by the authority of *kings*: in latter times, too much swayed by *ministerial* influence; and all this in consequence of its being in no respect a just and accountable representative of the people.

‘ In

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<sup>a</sup> *Rapin*, II. 306.

<sup>b</sup> *Ibid.*

'In former ages' (says Mr. Cornwall<sup>a</sup>, in the house, A. D. 1685.) 'the complexion of this house might have been depended on as a true representation of the inclinations of the people; but by whatever magic art it has been brought about, the case is now directly contrary. The complexion of this assembly is always the same with that of our ministers. We adopt all their measures. We applaud every step of their conduct. We are angry with those they happen to be angry with. We enquire when they set us on; and we stop when they say, You have gone far enough. Sir, we have had for many years past a course of most excellent ministers, or this house has by some magic art been rendered blind to their failings. I say some magic art, for if by any art we have been rendered remiss in our duty, it must have been by some art of the Devil permitted by God Almighty for the punishment of our sins; and if so, I hope he will dispel the enchantment, before we have blindly run ourselves into irrecoverable perdition.'

The nation in general disapproved of the proceedings of the tory commons, A. D. 1701, and the justices of peace, grand jury, freeholders, &c. of Kent presented a petition, lamenting the divisions in the kingdom, and the reflexions cast upon the king (by the commons) recommending union, attention to the sense of the people, supplies, &c. The house votes it scandalous, insolent, seditious, tending to destroy the constitution of parliament, and to subvert the established government of these realms. They ordered the gentlemen, who presented it, to be taken into

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<sup>a</sup> Alm. Deb. Com. II. 198.

## Chap. II. DISQUISITIONS.

into custody. One escaped. It was apprehended that force would be used to rescue the others. The house orders them to the gatehouse, and addresses the king to issue his proclamation for apprehending *Colleppe* again, and for putting out of the commission of the peace and lieutenancy such of the petitioners as were in them. Then the legion letter was sent to the speaker, which begun thus, "Gentlemen, it were to be wished you were men of that temper, and possessed of so much honour, as to bear with the truth, though it be against you, especially from us, who have so much right to tell it to you: But since even petitions to you from your masters (for such are the people who chose you) are so haughtily received as with the committing the authors to illegal custody; you must give us leave to give you this fair notice of your misbehaviour. If you think fit to rectify your errors, you will do well, and possibly may hear no more of us; but if not, assure yourselves the nation will not long hide their resentments. And though there are no stated proceedings to bring you to your duty, yet the great law of reason says, and all nations allow, that whatever power is above law, is burdensome and tyrannical, and may be reduced by extra-judicial methods. You are not above the people's resentment; they that made you members may reduce you to the same rank from whence they chose you, and may give you a taste of their abused kindness in terms you may not be pleased with, &c."

The imprisoning of the *Kentish* petitioners was afterwards condemned in parliament. Yet the commons

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\* DEN. COM. 111. 142. *ENGL. HIST. OWN TIMES*, 111. 381.

mons condemned the petition itself, and resolved, that to assert, that the house of commons is not the only representative of the commons of *England*, or that the commons have no power of commitment, but over their own members, or to reflect on the proceedings of the house, or of any member in the house, are high violations of the privileges of the house of commons<sup>a</sup>. All this is the height of despotism, and is indeed inconsistent with itself.

Queen *Anne*, in her answer to the parliament's address, *A. D.* 1714, says, She esteems the address and approbation of the peace of *Utrecht*, the undoubted voice of her people. But the lords in their first address to *George I.* say, 'It was by no means to be imputed to the nation in general.' And the commons less than a year afterwards, said, 'As that dishonour cannot in justice be imputed to the whole nation, &c.' All this shews that a parliament may have one interest, and the nation another. This could not be, if parliaments were really what it is pretended they are<sup>b</sup>.

'The treaty of *Utrecht*' (says the duke of *Argyle*<sup>c</sup>; in the house of peers, *A. D.* 1739) 'was approved of by a majority in both houses of parliament. I remember, I then disapproved of it, and gave my sentiments very freely in this house against it; and I remember the reward I met with for so doing. That very treaty was in a following parliament, so highly disapproved of, that some of those who had the chief hand in making it, were punished by parliament; and others had perhaps been more severely punished if they had not fled from justice. This my lords, may perhaps be the fate of the convention in some future

<sup>a</sup> *Tind.* CONTIN. I. 503.

<sup>b</sup> *Ibid.* II. 356.

<sup>c</sup> *Deb.* LORDS, VI. 332.

‘ future parliament, though the father of it seems now  
 ‘ extremely fond of his child : for I cannot but look  
 ‘ upon his majesty’s speech and the address now pro-  
 ‘ posed as a second approbation of that convention.  
 ‘ I must think them designed as a new triumph over  
 ‘ those that opposed it, which can give no great joy  
 ‘ to the nation, whatever it may do to the father of  
 ‘ the convention ; and therefore I wish that in order  
 ‘ to make his country rejoice as well as himself, he  
 ‘ would hereafter take as much care to triumph over  
 ‘ those that oppose it.’

When the bill for searching houses in quest of sailors was before the commons, *A. D.* 1739, it was found to be very unpopular, and the people of *Glostershire* petitioned against it in a very high style, ‘ That it would, as the petitioners apprehend, impose  
 ‘ hardships upon the people too heavy to be borne, and  
 ‘ excite discontents in the minds of his majesty’s subjects ; would subvert all the rights and privileges of  
 ‘ a *Briton*, and overturn *Magna Charta* itself, the basis  
 ‘ on which they are built ; and by these means destroy  
 ‘ that very liberty, for the preservation of which the  
 ‘ present royal family was established upon the throne  
 ‘ of *Great Britain* ; for which reasons such a law could  
 ‘ never be obeyed, or much blood would be shed in  
 ‘ consequence of it.’ The house took such offence at this petition, that they voted, 196 to 144, it should not lie upon their table\*.

Hear Mr. *Pitt* on this subject, *A. D.* 1741. ‘ The  
 ‘ misfortune is, that gentlemen who are in office  
 ‘ seldom converse with any but such as are in office,  
 ‘ and such men, let them think what they will,  
 ‘ Vol. I. D always

' always applaud the conduct of their superiors ; con-  
 ' sequently, gentlemen who are in the administration,  
 ' or in any office under it, can rarely know what is  
 ' the voice of the people. The voice of this house  
 ' was formerly, I shall grant, and always ought to  
 ' be the voice of the people. If new parliaments were  
 ' more frequent, and few placemen and no pensioners  
 ' admitted, it would be so still ; but if long parliaments  
 ' be continued, and a corrupt influence should pre-  
 ' vail, not only at elections, but in this house, the  
 ' voice of the house will generally be very different,  
 ' nay often directly contrary to the voice of the people'.  
 So that gentleman thought 30 years ago, and to  
 the same purpose, a few years since, on the stamp-  
 act, he charged the house of commons with an unli-  
 mited compliance with the demands of the ministry.

In the case of *Ashby* and *White*, the resolutions of  
 the commons were directly contrary to the sense of  
 the people. The people's universal opinion was, that  
 the commons took too much upon them ; and that  
 any person may, and ought to appeal to the courts of  
 justice and the law of the land, when he thinks him-  
 self deprived of his right as an elector ; the resolu-  
 tions of a house of commons being unsteady and  
 vague, while the law of the land is notorious and per-  
 manent. Of which more hereafter.

We have, in our own times, seen a most remark-  
 able instance of disagreement between the sense of the  
 people, and that of parliament. We have seen par-  
 liament repeatedly expel Mr. *Wilkes*. And we have  
 seen the people so highly offended at this proceeding,  
 that

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<sup>a</sup> DEB. COM. XIII. 172.

that 60,000 of them have petitioned the king to dissolve this parliament. In consequence of which numerous petitions, it was to be expected, that some notice would be taken in the king's, that is the minister's speech, next ensuing. Instead of which (so low, is the people's importance sunk, and so little regard shewn to their opinion) the laughter of all *Europe* was excited by a few frivolous paragraphs about a pretended sickness among the horned cattle, of which no body had heard any thing before as then existing in *England*, nor has any one since. It was moved in the house of commons, that, in their address, in answer to the above profound speech, the house should declare their intention of enquiring into the causes of the present discontents. Several of the courtly members gravely denied that there was any discontent in the kingdom, though they knew that 60,000 had subscribed petitions for a dissolution of parliament. They might have argued more plausibly, that there was no parliament then existing. For it will appear presently, that a tenth part of the above number sends in the majority of the house. And if the voluntary petition of 60,000 deserves no regard, surely the bought votes of 5000 ought to go for nothing. Others of the opposers of the motion said, The affair did not come regularly before them; as if they had declared, that the house of commons, the grand inquest of the nation, the representatives of the people of *England*, are not obliged to enquire into a matter of such consequence in the opinion of the people, that 60,000 of them had thought it necessary to complain to the sovereign; or as if they so wholly disregarded the opinion of ten times the number of the electors of the majority of their house, concerning their own condition, that they did not think it worth while to enquire what

had so grievously offended so great a number of their constituents, as to provoke them to the unusual measure of petitioning the king for their dissolution. Others of the courtly gentlemen, in imitation of *Walpole*, said, the petitioners were base-born. But surely they could not be more base-born, than the beggars, who send in the majority of the house of commons.

The ministerial party, however, carried it against the motion \*.

### CHAP. III.

#### *What would be adequate Parliamentary Representation.*

**F**IVE millions, according to the estimate of my incomparable friend *Dr. Price*, and our best modern calculators, is nearest to the true number of the people of *England*. The males between 16 and 56 in 5 millions are 1,250,000, or a fourth part of the whole. As youth at 16 are of an age too immature to be capable of voting, so are many on the contrary capable of voting beyond the age of 56; and one may be supposed to make up for the other. It is commonly insisted on, that persons in servitude to others, and those who receive alms, ought not to be admitted to vote for members of parliament, because it is supposed, that their votes will be influenced by those, on whom they depend.

But the objection from influence would fall to the ground, if the state were on a right foot, and parliament

\* See *LOND. MAG.* 1770, .p. 32.

ament free from court-influence. Supposing half the constitution in disorder, it is not easy to determine what would be best for the other half. My purpose is, to point out *all* the defects. And if the people will correct *all* I shall point out, I will then answer, that all shall go well; but not if they amend by halves. —To return,—

Every man has what may be called property, and unalienable property. Every man has a life, a personal liberty, a character, a right to his earnings, a right to a religious profession and worship according to his conscience, &c. and many men, who are in a state of dependence upon others, and who receive charity, have wives and children, in whom they have a right. Thus the poor are in danger of being injured by the government in a variety of ways. But, according to the commonly received doctrine, that servants, and those who receive alms, have no right to vote for members of parliament, an immense multitude of the people are utterly deprived of all power in determining who shall be the protectors of their lives, their personal liberty, their little property (which though singly considered is of small value, yet is upon the whole a very great object) and the chastity of their wives and daughters, &c. What is particularly hard upon the poor in this case is, that though they have no share in determining who shall be the lawgivers of their country, they have a very heavy share in raising the taxes which support government. The taxes on malt, on beer, leather, soap, candles, and other articles, which are paid chiefly by the poor, who are allowed *no votes* for members of parliament, amount to as much as a heavy land-tax. The landed interest would complain grievously, if they had no power of electing representa-

tives. And it is an established maxim in free states, that whoever contributes to the expences of government ought to be satisfied concerning the application of the money contributed by them; consequently ought to have a share in electing those, who have the power of applying their money. Nor has the receiving of alms been always held a sufficient reason for refusing the privilege of voting; as appears by the following; <sup>c</sup> Resolved, *A. D.* 1690, That the free men ' of the port of *Sandwich*, inhabiting within the said ' borough, (although they receive *alms*) have a right ' to vote in electing barons to serve in parliament \*. Query, Whether there be not other instances of persons receiving alms, having a right to vote for members.

But, giving up the point, concerning the right of the poor to vote for members of parliament, the present state of parliamentary representation will still appear to be inadequate beyond all proportion. Of the 1,250,000, the whole number of males in *England*, we may well suppose that at least one third, or about 410,000 are housekeepers, and independent on alms. Divide this number by 513, the number of members for *England*, the quotient is 799 and a fraction, the round number is 800, which shews, that no member of parliament ought to carry his election against a competitor by fewer than 401 votes, that being a majority of 800, who have the right of voting, exclusive of the poor and dependent. If we allow *them* the right or privilege of choosing representatives, which I see no argument against, the number will be much greater, viz. about 1200, a majority of which is 601.

Mr.

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\* *Bobun's* RIGHT OF ELECT. p. 257, from the JOURNAL OF THE HOUSE OF COM.

Mr. *Posslethwayte* reckons 639,000 taxable persons in *England*, excluding *Wales* \*. And every person, who pays tax, ought to have a vote. Calculators did formerly reckon above 6,000,000 of souls in *England* and *Wales*. And Dr. *Price* shews, that there is great reason to apprehend (with much concern I write it) that 'we have lost a fourth part of our people.' Supposing *Posslethwayte's* number of taxable persons in *England* and *Wales* together to be 630,000; dividing this number by 513 shews, that no member ought to be voted into the house by fewer than the majority of 1200; for 1200 have a right, and 601 ought to be the smallest number of votes actually given to him who gains his election against a competitor. Or if we calculate by counties, the present state of representation will appear enormously absurd. The most adequate plan for forming an assembly of representatives, would be, for every county, including the cities, boroughs, cinque ports, or universities it happens to contain, to send in a proportion of the 513 answering to its contribution to the public expence. Were that the plan, we should, in the same manner, see no member sent into the house by fewer than several hundreds of voters. Of which hereafter.

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#### CHAP. IV.

##### *View of the present State of Parliamentary Representation.*

LET the reader judge for himself of the monstrous irregularity of parliamentary representation, from the following view of it by the learned and indefati-

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gably laborious *Brown Willis*, Esq; in his *NOTIT. PARLIAM.*

In the following extract, I have stated the *majority* as the only electors in each place; which they really are, the votes of the minority being *inefficient*. I have given to *Wallingford*, for instance, 76, the majority of 150 electors, which latter is the whole number of voters in that borough; so that no member for *Wallingford* can be elected by more than 76 *efficient* votes; and he, who has 76 votes, is as effectually elected as if he had the whole 150. And I have computed the number of votes, which elect the majority of the house, as the *majority* is the *same*, to all intents and purposes of legislation, with the whole 558, *nam. con.*

WALLINGFORD	sends 2 members chosen by 76,	
	the majority of 150.	
<i>Agmondesham</i>	— 2 —	66.
<i>Wendover</i>	— 2 —	81.
<i>Marlow</i>	— 2 —	76.
<i>Leskeard</i>	— 2 —	51.
<i>Lestwithiel</i>	— 2 —	13.
<i>Truro</i>	— 2 —	14.
<i>Bodmin</i>	— 2 —	19.
<i>Helston</i>	— 2 —	34.
<i>Saltaſh</i>	— 2 —	15.
<i>Camelford</i>	— 2 —	10.
<i>Westlaw</i>	— 2 —	40.
<i>Grampound</i>	— 2 —	5.
Carried over	26	500.

The right of election at *Grampound* is in the corporation of nine men, and burgesſes made by them, which burgesſes, therefore, are not to be accounted as free electors, being made for the purpose of the election. This is the case in other places, which I have not noted,

# Chap. IV. DISQUISITIONS.

41

Brought over	26	500.
<i>Eastlow</i>	sends 2 members chosen by 35	
<i>Peuryu</i>	2	51.
<i>Tregoney</i>	2	51.
<i>Bossiney</i>	2	16.
<i>St. Ives</i>	2	76.
<i>Fowey</i>	2	26.
<i>St. Germain's</i>	2	26.
<i>St. Michael</i>	2	14.
<i>Newport</i>	2	31.
<i>St. Mawes</i>	2	16.
<i>Kellington</i>	2	51.
<i>Cockermouth</i>	2	101.
<i>Totnes</i>	2	54.
<i>Plimpton</i>	2	101.
<i>Honyton</i>	2	101.
<i>Tavistock</i>	2	56.
<i>Asheburton</i>	2	101.
<i>Clifton, Devonshire</i>	2	50.
<i>Bereaston</i>	2	36.
<i>Tiverton</i>	2	14.
<i>Pool, Dorsetshire</i>	2	51.
<i>Lyme, ditto.</i>	2	26.
<i>Bridport</i>	2	61.
<i>Wareham</i>	2	76.
<i>Corfe-Castle</i>	2	71.
<i>Maldon, Essex</i>	2	14.
<i>Harwich</i>	2	17.
<i>Weobly, Herefordsh.</i>	2	43.
<i>Huntingdon</i>	2	101.
<i>Queenborough, Kent</i>	2	26.
<i>Newton, Lancashire</i>	2	31.

Carried over

88

2019.

Brought over	88	2019.
<i>Wigan</i>	sends 2 members chosen by	101.
<i>Clithero</i>	— 2 —	46.
<i>Boston, Lincolnshire</i>	— 2 —	101.
<i>Grimby</i>	— 2 —	41.
<i>Thetford, Norfolk</i>	— 2 —	17.
<i>Cafile Rising</i>	— 2 —	16.
<i>Brackley, Northampt.</i>	— 2 —	17.
<i>Higbam Ferrers</i>	— 2 —	51.
<i>Morpeth, Northumberl.</i>	— 2 —	101.
<i>East Retford, Nottingh.</i>	— 2 —	76.
<i>Banbury, Oxfordshire</i>	— 2 —	10.
<i>Wenlock Magna, Salop</i>	— 2 —	51.
<i>Bishop's Castle</i>	— 2 —	51.
<i>Bath, Somersetshire</i>	— 2 —	17.
<i>Minehead</i>	— 2 —	81.
<i>Ilchester</i>	— 2 —	61.
<i>Melborne</i>	— 2 —	26.
<i>Winchester</i>	— 2 —	51.
<i>Southampton</i>	— 2 —	51.
<i>Yarmouth, Wight</i>	— 2 —	26.
<i>Petersfield</i>	— 2 —	78.
<i>Newport, Wight</i>	— 2 —	13.
<i>Stockbridge</i>	— 2 —	26.
<i>Newton, Wight</i>	— 2 —	1.

The lord of this borough appoints a mayor and twelve burgesses, who choose the members.

*Christchurch, Hampsh.* — 2 — 7.

Here likewise the corporation of 13 make the burgesses as they please. Therefore the corporation only are to be reckoned the electors.

Carried over 138

3136.

# Chap. IV. DISQUISITIONS.

43

Brought over 138 3136.

*Lyminster* sends 2 members chosen by 41.

*Whitchurch* — 2 — 21.

The freeholders are the electors, who cannot be above 40, as there are but 100 houses in the town.

*Andover* — 2 — 13.

Yet there are 600 houses in the town.

*Dunwich* — 2 — 21.

*Orford* — 2 — 41.

*Aldborough* — 2 — 43.

*Eye* — 2 — 101.

*St. Edmondsbury* — 2 — 20.

*Bletchingley, Surry* — 2 — 46.

*Ryegate* — 2 — 101.

*Gatton* — 2 — 11.

*Haslemere* — 2 — 31.

*Horsham* — 2 — 33.

*Midhurst* — 2 — 56.

*New Shoreham* — 2 — 36.

*Bramber* — 2 — 8.

*Willis* says, there are not above 20 houses, and that the members are elected by the burgh-holders.

*East Grinstead* — 2 — 19.

*Arundel, Suffolk* — 2 — 54.

*Appleby, Westmoreland* — 2 — 51.

*New Sarum* — 2 — 29.

*Wilton* — 2 — 41.

*Downton* — 2 — 31.

*Hindon* — 2 — 31.

*Heytesbury* — 2 — 26.

*Westbury* — 2 — 26.

*Calne* — 2 — 18.

Carried over 190 4085.

Brought over	190	4085.
Chippenham	sends 2 members chosen by 76.	
Malmesbury	— 2 —	7.
Cricklade	— 2 —	81.
Bedwin	— 2 —	41.
Ludgershal	— 2 —	36.
Old Sarum	— 2 —	1.

‘Here is but one house,’ says *Willis*, A. D. 1750. I have been told that now there is no house. I was therefore going to charge the two *Old Sarum* senators to nobody. But as *Willis* says, the lord of the borough appoints a bailiff and six burgeses, to whom he gives his *conge d’elire*. I have called them his representatives. And surely he, and the lord of the borough of *Newton*, in the isle of *Wight*, ought to be contented with the representation they have in parliament.

<i>Bewdley</i>	— 2 —	8.
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I state *Bewdley* at 8, the majority of 14, as the other 20 are appointed by the 14.

<i>Knareborough, Yorksb.</i>	— 2 —	26.
<i>Scarborough</i>	— 2 —	20.
<i>Rippon</i>	— 2 —	101.
<i>Heydon</i>	— 2 —	42.
<i>Boroughbridge</i>	— 2 —	33.
<i>New Malton</i>	— 2 —	51.
<i>Thirsk</i>	— 2 —	23.
<i>Aldborough</i>	— 2 —	38.

This town and *Boroughbridge* are both in one parish, the only single parish in *England* that sends 4 members.

<i>North Allerton</i>	— 2 —	91.
<i>Hastings, cinq. port</i>	— 2 —	101.

Carried over	224	4861.
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Brought over	224	4861.
<i>Hythe</i> , cinq. port	sends 2 members chosen by	26.
<i>New Romney</i> , ditto.	— 2 —	17.
<i>Rye</i>	— 2 —	51.
<i>Winchelsea</i>	— 2 —	21.
<i>Seaford</i> , cinq. port	— 2 —	21.
<i>Beaumarice, Wales</i>	— 1 —	13.
<i>Montgomery</i>	— 1 —	41.
<i>Steyning</i>	— 2 —	41.
<i>Droifet</i>	— 2 —	72.

The corporation consists of 36, who make what burgeses they please. They being probably at the command of the corporation, are hardly to be accounted free electors. Let us, however add 36 to the corporation, which will make the majority of electors 72.

<i>Wotton Bassett</i>	— 2 —	76.
<i>Shaftesbury</i>	— 2 —	151.
<i>Marlborough</i>	— 2 —	2.

The members are elected by the corporation only, which are a mayor and two bailiffs.

<i>Droitwich</i>	— 2 —	21.
<i>Newark</i>	— 2 —	151.
<i>Buckingham</i>	— 2 —	7.
<i>Barnstaple</i>	— 2 —	151.

254

5723.

From this extract we see, that 254 members are actually elected by 5723 votes; now the most numerous meeting of the commons ever known, was on occasion of the debate about *Walpole*, A. D. 1741. There were then 502 in the house. Therefore 254 comes very near a majority of the house, or the whole acting and efficient number. And the greatest part of these illustrious

trious 5723, who have the power of constituting lawgivers over the property of the nation, are themselves persons of no property.

In *North Britain* the number of souls is about 1,500,000. The males between 16 and 56 are 300,000. Allowing one third part to be their own masters, and to be above receiving charity, no *Scotch* member ought to be elected by fewer than a majority of 2000 votes. But there are many instances of members elected in *North Britain* by almost as small a number as in *England*. The truth of the matter is, that in *North Britain*, though the country be nothing as to riches, compared with *England*, yet there are fewer beggars. Almost all are housekeepers, though a great number of those houses are wretched hovels. So that almost all adult males ought to be voters in *North Britain*.

Lord Talbot <sup>a</sup>, in his speech in the house of peers, *A. D.* 1739, supposes, that 50,000 elect the majority of the house. And he justly exclaims against that number, as utterly disproportionate, which it undoubtedly is, if the due number be 416,000 or 639,000. What would his lordship have said, had he known that little more than a tenth part of his 50,000 send in the majority of our law-makers?

Taking the whole representative for *South* and *North Britain*, the members for counties are only 131 of the 558, of which 131, 42 are for *Scotland* and *Wales* <sup>b</sup>. The members, therefore, for the boroughs and cinque ports, which ought not to be one in ten, compared with those for the counties, are 382, above four times as many. So that for one member, who may

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<sup>a</sup> *DEB. LORDS*, VI. 345.

<sup>b</sup> *DEB. COM.* XIII. 13.

may be supposed to come fairly into the house, four (if we except a few for the great cities) are sent by the poorest of the people, directed by court-influence.

We have seen above, p. 38, that, dividing the right of voting as it ought to be, no member should be elected by fewer than the majority of 800 votes. But we find, that not one member of all these 256 is elected by a number so high as 300; and a multitude by a number below 20.

If we take the places, where a majority of the electors comes below 20, it is shameful what a proportion of the 513 is sent into the house by a handful, and that handful mostly people in low circumstances, and therefore obnoxious to bribery, or under the power of their superiors.

LESTWITHEL	sends 2 members chosen by	13.
Truro	2	14.
Bodmin	2	19.
Saltaſh	2	15.
Camelford	2	10.
Bosſiney	2	11.
St. Michael	2	14.
St. Mawes	2	16.
Tiverton	2	14.
Maldon	2	14.
Harwich	2	17.
Thetford	2	17.
Brackley	2	17.
Banbury	2	11.
Bath	2	17.
Newport, Wight	2	13.
Newton, ditto.	2	1.
Andover	2	13.

Carried over

36

246.

Brought over	36	246
Gatton	sends 2 members chosen by 11.	
Brighthelm	2	8.
East Grinstead	2	19.
Catne	2	18.
Malmesbury	2	7.
Old Sarum	2	1.
Bewdley	2	18.
New Romney	2	17.
Marlborough	2	2.
Buckingham	2	7.
	56	364.

Here we see 56 members (about a ninth part of the whole for *England*) are sent into the house of commons by 364 votes, which number ought not to send in one member. For no member ought to be elected by fewer than the majority of 800, upon the most moderate calculation, according to *Dr. Price*, in order to give 410,000 voters their due and equally distributed share of legislative power, without which equal distribution the majority of the men of property are enslaved to the handful of beggars, who, by electing the majority of the house of commons, have so great an overbalance of power over them, as to be able to carry every point in direct opposition to their opinion, and to their interest.

Here we see (*monstrum horrendum, ingens!*) two persons, the lord of the pitiful town of *Newton*, in the isle of *Wight*, and him of *Old Sarum, Wiltshire*, where there is not a house, send in as many members as the inestimable wealth of the city of *London*, in which the livery, who are the legal electors, are 8,000; and the persons, who ought to have votes are

are probably 30,000, and upwards. Here two individuals have equal weight in the state with 30,000!

The following counties, *A. D.* 1693 to 1697 on an average, paid annually as follows, each respectively so many parts in 513 of the land-tax and subsidy; and sent members as follows <sup>a</sup>.

	Land-tax.	Subsidy.	Members.
<i>Cumberland</i>	1	1	6.
<i>Dorset</i>	9	6	20.
<i>Westmoreland</i>	1	1	4.
<i>Cornwal</i>	8	5	44.
<i>Middlesex</i>	80	185	8.

According to this estimate, *Middlesex*, with its towns, contributes of land-tax and subsidy together 265 parts of 513. Therefore *Middlesex* ought to be represented by 265 members. And *Cornwal* contributes of land-tax and subsidy together 13 parts of 513. Therefore *Cornwal* ought to send 13 members.

Men of large property ought likewise to have more votes, than those, who have less to secure. Property ought in all states to have its proportional weight and consequence.

In the *East India* act of 1773, which was heavily complained of for its injustice, there is yet one very equitable regulation, and worthy of imitation, viz. That every proprietor of 3000 *l.* stock shall have two votes; of 6000 *l.* 3; and of 10,000 *l.* 4 votes at elections of directors <sup>b</sup>.

The *British* government, therefore, taking it according to its avowed state, is neither absolute monarchy nor limited monarchy, nor aristocracy, nor democracy, nor a mixture of monarchy, aristocracy and democracy;

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cracy;

<sup>a</sup> *Poſtlethwayte's* DICT. Word PARL.

<sup>b</sup> WHITEH. EV. POST, June 16, 1773.

cracy ; but may be called a ptochocracy (the reader will pardon a new word) or government of beggars. For a few beggarly boroughs do avowedly elect the most important part of the government, the part which commands the purse. It is true this is only the ostensible state of things. The *British* government is *really* a juntocracy (I doubt the reader will now think I presume upon his good nature) or government by a minister and his crew. For the court directs the beggars whom to choose.

Is this the universally admired and universally envied *British* constitution ?

How much more proper would a petition have been, from the friends of liberty to the king, to set himself at the head of a plan for restoring *independency* to parliament, than petitioning him to *dissolve* that which was then sitting. What point could have been gained by that measure ? It is a handful of beggars, bribed, or awed, by the court, or the grandees, that sends the majority of the members into the house. Would not they have sent back the *same* men ? Did they *dare* to send any *others* ? If it be said, that the dissolution of the parliament then sitting would have redressed all grievances ; it must follow, that a *new* parliament would ; but how many *new* parliaments have we seen since the revolution ? Yet we have now standing armies, septennial parliaments, rotten boroughs, placemen in the house, excises, &c.

Though I have not the least idea of wishing so great a change in the constitution, as would exclude king and lords from parliament ; yet I may, I think, be allowed just to mention, that the great power by our constitution vested in a *small* number of individuals, which will always make an inequality, and an unbalancing, ought to make us the more desirous

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of reducing, if possible, *one* of our three estates at least, to somewhat a little nearer to adequate, than it is at present. But of this more hereafter.

Representation in the house of commons is inadequate in other respects besides those already mentioned.

In antient times, when parliaments were first established, there was no property, but that of *land*. Therefore all powers, and all honours, were heaped on the landed men. The consequence was, that the landed interest was too well represented, to the detriment (in our times) of the mercantile and monied. This is an occasion of various evils. For many of our country-gentlemen are but bad judges of the importance of the mercantile interest, and do not wisely consult it in their bills and acts. Of this kind are the game-act, the dog-act, and taxes on every necessary of life, which give our rivals in trade a great advantage over us. And ministers, to curry favour with the house of commons, are tempted to burden commerce with taxes for the sake of easing the landed interest. See the art of *Walpole* <sup>a</sup> to this purpose, by proposing to ease the land of one shilling in the pound, and laying a duty on salt for three years, to make up the deficiency. It was objected to this proposal, That the salt-duty was always reckoned a grievous burden upon the manufacturing poor, and was therefore taken off; and that it was a strange paradox, that the *landed* gentlemen were *poorer* than the *poor*, and therefore in more need of relief from a heavy tax.

It is the overbalance of the power in the hands of the landed men, that has produced the bounty on exportation of corn (of which more fully hereafter) which increases the manufacturer's expence of living, and dis-

discourages the exportation of our manufactures. This is, in the end, hurtful to the landed interest. But short sighted and selfish men do not see it in that light; nor will seem to understand, that the land-tax, while nominally three shillings in the pound, is not really nine-pence. The time was, when land in *England* might have been purchased for a 50th part of its present value. What has given it the 49 parts additional worth? Can any one imagine, the difference is owing to any thing, but our trade and manufactures?

*A. D.* 1373, a parliament being called, it was expressly mentioned in the writ, that from every burgh there should be sent two burgesses, 'the most discreet and sufficient, who had the greatest skill in shipping and merchandizing'.

There was a clause in the election-bill in king *William's* time for rendering merchants eligible into parliament, making oath, that they were worth 5000 *l.*<sup>b</sup>

'When the young nobility and gentry (says *Dave-*  
'*nant*) employ their time and thoughts carefully to in-  
'spect and consider the kingdom's foreign traffic, they  
'will evidently see how much their landed interest de-  
'pends upon it; they will find that as trade brought  
'land from 12 to 25, the general rental from 6 to 14  
'millions, and the kingdom's capital from 72 to 252  
'millions, reckoning lands, tenements, hereditaments,  
'and personal estates, 18 years purchase at a medium;  
'so it may bring land from 25 to 50 years purchase,  
'and lands, tenements, hereditaments, &c. from 18 to  
'26 years purchase, the general rental from 14 millions  
'to 28 millions, and the kingdom's capital from 252  
'to

<sup>a</sup> *Brady*, III. 296.

<sup>b</sup> *Deb. Com.* III. 70.

‘ to above 1000 millions, if by industry and prudent  
‘ management it can be rendered more extensive. But  
‘ the mutual dependance between land and trade, we  
‘ hope, has been sufficiently made out in the series of  
‘ these discourses <sup>a</sup>.’

It was owing to a want of merchants in the house, that the bill for restraining paper-credit in *America* was brought in. And it was no small disgrace to the house, that there were petitions against it presented from most of the agents for the colonies, as an imprudent and hurtful scheme. *Posslethwayte*, in his *DICTIONARY OF COMM. and BRIT. TRUE SYST.* has made many remarks on the advantage of merchants in the house of commons; to whom I must refer the reader.

Is not an aristocracy a government in the hands of a few, or of one class, or one interest, excluding the body of the people of property from their due weight in government? Is not our house of peers wholly, and our house of commons chiefly filled with men, whose property is land? Is not therefore the government of this mercantile and manufacturing country in the hands of the landed interest to the exclusion of the mercantile and manufactural? Does not then the government of this country tend too much to aristocracy?

The eldest sons of *Scotch* peers are declared incapable of sitting in the house of commons <sup>b</sup>. But the sons of *English* peers may sit, so that ten individuals out of one family may be legislators. Is not this too aristocratical?

It is said, property in land is more capable of being proved, than in merchandice, manufactures, or stocks. But this is frivolous; for any man, though possessed

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of

<sup>a</sup> *Daven.* II. 81.

<sup>b</sup> *DEB. COM.* IV. 105,

of an ostensible land-estate, may be in debt to more than the value of his estate; and where is then his qualification?

The interest of merchants is so much the interest of the nation, that there can hardly be too many merchants in parliament. The *London* members almost always vote on the side of liberty. It is objected, that each merchant will probably vote in parliament for what is most for the advantage of his own particular branch. True. Therefore let a considerable number of merchants always have seats in the house, and then all different interests will be consulted. It has likewise been argued, that merchants are bad members, because they are liable to be influenced in favour of the court by government contracts. But here again comes in my observation concerning *partial* reformations. Correct all the other abuses, and court-influence will become impossible. Then will appear the advantage of merchants in the house of commons. Of all which more hereafter.

As to the monied interest, if the public debts are not to be paid, or some substantial security found for them, it would be very proper, that the monied interest (as such) should have representation in parliament. Else what security have we, that a profligate court will not shut up the exchequer, as *Charles II.* did, and obtain, by corrupt means, the sanction of parliament for the measure? It is indeed alledged, that the mercantile, manufactural, and monied interests are represented by the members for the cities, and boroughs. But this is nothing to the purpose. Because the qualification required is always to be in land.

## CHAP. V.

*How parliamentary Representation came to be thus inadequate.*

**R**epresentation in the commons house of parliament came to be thus out of all proportion inadequate, in much the same manner as cities come to be built in defiance of all plan or regularity, by every land-proprietor's humouring his own caprice in building upon his own ground. Our kings and our queens gave and took away the privilege of sending members, as pleased their fancy without all regard to justice, or proportion.

Mr. Carte<sup>a</sup> alleges, that the lawyers, in the puritan times, in order to strengthen their own party, searched old records, and found, that many towns of the king's demesne had been summoned once or twice by Edward I. to send representatives; and on this founded a pretence, that these were in all times parliament-towns. Thus (says he) the puritans got the ascendancy in the house; and thus was an unreasonable disproportion in the representation of the kingdom introduced to the infinite prejudice of the constitution.

Mr. Carte shews, that the mode of representation established in antient times was tolerably adequate; but that the case is now vastly altered. There is no longer any just or reasonable proportion in the representation. For, whilst all the landed interest is represented by 92 members, and the trading or mo-

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<sup>a</sup> Quoted PARL. HIST. XXI. 212.

‘nied interest’<sup>a</sup> by about 100 deputies of cities and great towns, there are above 300 representatives of small, inconsiderable, and many of these beggarly boroughs, who by a majority of 3 to 2, are able to dispose of the property of all the landed and opulent men in the kingdom in despite of their unanimous dissent. These have long been considered as the rotten part of our constitution, and being venal as well as poor, they have been the chief source of the corruption complained of in modern parliaments.’

‘Foreigners, who know and reflect on this inequality in our representation, which they cannot reconcile to common sense, stand amazed at hearing us brag of the excellency of our constitution, while it labours under so fundamental a defect, and are apt to doubt, whether the sense of parliament is really the sense of the nation,’ &c.<sup>b</sup>

According to *Borlase*, author of the *NATURAL HISTORY OF CORNWAL*, only 5 boroughs of that county sent 10 members, and the county 2, 23 *Edw. I.* and *Lestwithiel* sent 2 more, 33 *Edw. I.* Thus it remained, excepting one change, to 6 *Edw. VI.* when 7 other boroughs were allowed to send 2 members each. 1 *Mary*, another was added, and 4 and 5 of the same reign, another. 1 *Eliz.* another; 5 of the same reign, 2 others; 13 of the same queen, 2 others; and 27, another; in all 21 boroughs, which,

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<sup>a</sup> This is not just. For the members sent by cities and great towns are commonly landed gentlemen, as much as the others, and do not consider themselves as particularly obliged to take care of the trading, much less of the monied interest.

<sup>b</sup> *PARL. HIST. XXI. 213.*

which, with the county, make up 44 members. The cause of this partiality for *Cornwall*, he thinks, was that dutchy's being in the crown, and yielding a greater royal revenue, than any other county, all which was very convenient for our kings and queens, as the places were poor, and consequently dependent. So that probably the very design of giving this privilege to these paltry boroughs was, to obtain for the court an undue influence in parliament. And ought they then to be allowed a privilege, unjust in itself and given with unjust views? Towns came to be burghs (that is, privileged within themselves, and freed from certain taxes and tallages) by charters of lords or kings<sup>a</sup>. It was originally left to the sheriff of each county to name the burghs, which should send members<sup>b</sup>. The oldest returns extant of knights, citizens, and burgeses, are 26 *Edward I.* viz. 2 knights for *Wiltshire*, 2 citizens for *New Sarum*, 2 burgeses for *Downton*, 2 for *Devizes*, 2 for *Chippenham*, 2 for *Malmesbury*<sup>c</sup>. But afterwards, 12 *Edw. III.* there were returned only 2 knights for the county, 2 citizens for *Sarum*, 2 for *Wilton*, 2 for *Downton*, and 2 for *Merleberg*, [*Marlborough*<sup>d</sup>.] *Brady* mentions many instances of places discontinuing to send members, and then beginning again, and discontinuing again, for 100 to 300 years, &c. And, which is extraordinary, the returning officer would often return, ' *Nulla est alia*, &c. There are no more cities, nor ' burghs in my bailiwick,' though more cities and burghs in the same bailiwick, or county, had formerly sent members<sup>e</sup>. He meant, ' There is no other city  
' or

<sup>a</sup> *Brady*, 1. Of BURGHS, 43.

<sup>b</sup> *Ibid.* 52.

<sup>c</sup> *Ibid.* 52.

<sup>d</sup> *Ibid.*

<sup>e</sup> *Ibid.* et pass.

‘or burgh, fit to send members;’ for the sheriff, at his pleasure, often spared the decayed burghs the expence of sending members, though there was a law, 5 *Rich. II. c. 4.* for punishing sheriffs, who failed in this respect. The sheriffs, in their returns, still extant, often mention, that there are no other places in the county, now able to send members<sup>a</sup>. There is no instance (says *Brady*<sup>b</sup>) of any burgh’s complaining of its not being represented. But there are instances of their petitioning to be excused sending members.

Mr. *Willis* thinks, there were before *Edw. VI.* about 130 cities and boroughs, in all, that returned members to parliament<sup>c</sup>, and that the original number was not considerably increased till the time of *Henry VIII.* but continued from the middle of *Edward III.* much the same, (not 30 new boroughs being created between *Edw. I.* and *Edw. VI.*) excepting that some boroughs intermitted sending for some time, as 50, 100, to 400 years, and afterwards begun again. In several parliaments, as 18 *Edw. III. &c.* the records say, ‘*In hoc parl. &c.* In this parliament there were no briefs [or writs] sent to any city or burgh, but to the counties only<sup>d</sup>.’ There were likewise councils, or parliaments, in which were only members from trading towns, and no knights of shires<sup>e</sup>. There were 17 places made burghs, with privilege of sending members, by *Henry VI.*<sup>f</sup>. The cinque ports are now 8; though the very name shews, that they were originally but 5<sup>g</sup>. *Prynne* says *Wales* sent 48 members, *temp. Edward II.* But *Henry VIII.* summoned

<sup>a</sup> *Brady*, I. Of BURGHS, 52 et pass.

<sup>b</sup> *Ibid.* 59.

<sup>c</sup> NOT. PARL. I. Pref. vii.

<sup>d</sup> *Ibid.* xlii.

<sup>e</sup> *Ibid.* ix.

<sup>f</sup> *Ibid.* xiv.

<sup>g</sup> *Ibid.*

summoned only 12 knights and 12 burgeses<sup>a</sup>. Some trading places sent representatives, upon occasional summonses to councils for regulating trade. Mr. *Willis* likewise gives a list of burghs, which formerly returned members, and ‘which if restored (says he<sup>b</sup>) would constitute a parliament near half as numerous, as the representative of burghs was before *Edward VI.*’ The county-palatine of *Chester*, and city of the same, sent no members before *Edward VI.*<sup>c</sup> Nor *Durham* county-palatine and city before 25 *Car. II.*<sup>d</sup> The small boroughs, to which the privilege of sending members had been granted for the support of ministerial influence, and corruption, were deprived of their right of election; *A. D.* 1654, under the usurpation of *Cromwell*<sup>e</sup>. In former times, the king’s learned council, the civilians, masters in chancery, were summoned to attend parliament, but without voices, as now the judges; and the bishops were to bring with them ‘their dean and chapter, their arch-deacon, and all the clergy [*totumque clerum*] of their diocese, by their representatives [*procuratores*] to agree [*ad consentiendum*] to the things which shall be ordained<sup>f</sup>.’ This last [*ad consentiendum*] seems to imply, that all these holy men had suffrage in parliament. But lord *Coke* expressly affirms the contrary, and indeed it is not probable that they had, though they were in those times held in high veneration. There were 33 abbots summoned to parliament 4 *Edward III.* and in the parliament writs 6 *Edward III.* 23 others, besides 4 priors, and the master of the order of *Semplingham*, who were not usually in parliament.

<sup>a</sup> NOT. PARL. I. Pref. xv.

<sup>b</sup> Ibid. xxx.

<sup>c</sup> Ibid. i. 197.

<sup>d</sup> Ibid. ii. 510.

<sup>e</sup> *Macaul.* HIST. v. 140.

<sup>f</sup> *Coke’s INSTIT.* v. 4.

parliament. [I have forgot, in copying this out, to set down from whence I took it.] ‘ Four knights for every county, and two men for every city, burgh, and market-town, were summoned to parliament,’ *A. D.* 1283, *temp.* *Edward I.*<sup>a</sup> Near the end of *Edward I.* writs were issued out for all the counties, excepting *Cheshire* and *Durham*.<sup>b</sup> *A. D.* 1446, 24 *Henry VI.* there were 74 knights in parliament from 37 counties; one of which is *Wigorn*, and several counties are left out. There were 200 burgessees; so that the whole house of commons consisted of 274 members, now 513, for *England*. [I have forgot, in extracting this paragraph, to mark from whence I took it.] According to *Blackstone*<sup>c</sup>, there were only 300 members in the commons house of parliament in the time of *Henry VI.*<sup>c</sup> Therefore the number of the house of commons is almost doubled in about 300 years by our kings and queens giving privilege of election to new places.

There was in the time of *Henry V.* a debate about the surrender of corporations. *Bada* (Qu.) and *Newbury* surrendered their corporations to the king. It was questioned, Whether a corporation can surrender its charter, which is robbing posterity. And the commons called upon those towns to send members, notwithstanding the surrender. The house however excused their sending members on their pleading inability, and ‘ they sent none since <sup>d</sup>.’ An act passed 1690, to declare the right and freedom of election for the cinque-ports. Before this bill the wardens of the cinque-ports claimed a right of nominating to each  
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<sup>a</sup> *Brady*, III. 10.

<sup>b</sup> *PARL. HIST.* I. 131.

<sup>c</sup> *COMM.* I. 174.

<sup>d</sup> *DEB. LORDS.* I. 398.

cinque-port one person to serve as baron or member of parliament <sup>a</sup>.

In *Henry VIII*th's first parliament there were 148 counties and boroughs, which sent members; and the whole number of the commons was 298. *Durham* and *Chester* were not in the list. The 6 boroughs of *Cornwal*, and the county, probably sent only 14 members, where now they send 44. No members then for *Westminster*. *Wiltshire*, with its cities and boroughs, sent 34. *Henry* gave, or restored, privilege of sending members to 14 counties, chiefly *Welch*, and to 17 towns in *England* and *Wales*, and to *Calais* in *France*; in all 32 counties and boroughs, which sent to parliament 38 members. *Edward VI.* gave privilege to 22 boroughs (no counties) and they sent 44 members. *Queen Mary*, to 14 boroughs, which sent 25 members. *Elizabeth* to 31 boroughs, which sent 62 members. *James I.* to 14 boroughs, which sent 27 members. [I have forgot to mark whence I took this paragraph.] *February* 15, 1640, The commons ordered that *Cockermouth* should be restored to its former privilege of sending members <sup>b</sup>. *November* 26, That the towns of *Ashperton* and *Honiton* should likewise send members <sup>c</sup>. *Oakhampton* had no members since *Edward II.* It was restored at the beginning of this parliament. *Weaby* had sent no members since *Edward I.* It was restored 1640. *Milborn-port* sent none since 35 *Edward I.* till required in 1640. The commons, in the same year, ordered that *Malton*, *Allerton*, and *Seaford* should be restored to their former privileges.

Under *James II.* the power of electing members of parliament was in many places transferred from the inhabitants

<sup>a</sup> *Find.* CONTIN. I. 132.

<sup>c</sup> *Ibid.* xxv.

<sup>b</sup> COMMONS JOURN. XXIII.

inhabitants in general to the magistrates; because they were likely to be more within the reach of bribery<sup>a</sup>.

The borough of *Stockbridge*, A. D. 1689, for bribery, narrowly escaped being disfranchised, and incapacitated for ever for sending members, and instead of its 2 members, an addition was proposed to be made of 2 more knights of the shire for the county of *Southampton*<sup>b</sup>.

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## CHAP. VI.

*Evil of the Boroughs having so disproportionate a Share in Parliamentary Representation.*

**M**EMBERS of parliament have the properties, liberties, and lives of the nation in their hands, and hold themselves accountable to no man, or set of men, for the laws they make. Ought the trustees of so great a charge to be men capable of giving or receiving base bribes? Members of parliament ought to be men of good natural parts, education, and character, sound reasoners, graceful speakers, knowing in the three interests, *viz.* the landed, the commercial, and the monied, in general history, law, and politics, and in the history, laws, and politics of *Britain*, learned in human nature, and masters of the spirit and disposition of the inhabitants of the three kingdoms, and of the colonies. Is it to be conceived, that the inhabitants of a set of miserable *Cornish* boroughs are judges of such high accomplishments as these? Were election of members of parliament upon its proper foot, every county,

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<sup>a</sup> *Hume's Hist. Stuarts*, II. 404.

<sup>b</sup> *Bobun's RIGHT OF ELECTION*, p. 275.

county, including its cities and towns, would elect a set of gentlemen to be its representatives. This would centre the wisdom of the whole county, and not leave it, as at present, in the power of a dozen silly fellows to set up a lawmaker, capable or incapable, over their country.

Here I must hint to the reader, that, though I have stated the accomplishments of a member pretty high, I am sensible, that lower, with integrity, will suffice, or at least would, if parliament were upon the proper foot as to independency. But the lamentable part of the case is at present, that by far the greatest part of our electors are wholly incapable of distinguishing, and must be supposed often to chuse the worst qualified of the candidates, and reject the best.

We often see, before a general election, many flaming harangues addressed to the people, shewing them the importance of choosing proper persons for so momentous a trust. I have wondered in myself how any man of sense could waste his paper and ink so fruitlessly as in giving people advice, which no man, who knows human nature, can expect them to take. The plain *English* of those harangues is as follows.

*Illustrious beggars of the Cornish boroughs!*

Your country expects of you at the approaching election, what every considerate person must conclude to be wholly out of your reach, viz. That you will wisely and honestly consider the importance of the trust reposed in you, of sending into the legislative assembly of the nation so great a proportion of the members. It is expected, that you are well qualified, without having ever had the means for being qualified to judge of the fitness of candidates; that you, who have neither knowledge of books, nor of the world, should

should judge unerringly of the capacities and dispositions of persons, who offer themselves as candidates for your favour. It is likewise expected, illustrious beggars, that you, whose circumstances are, in the most miserable degree, dependent, should be, in your principles and dispositions, independent patriots. As we require a qualification in members of parliament, of several hundreds a year, that they may be above temptation, so we expect of you, who are in continual want, that you defy temptation. Do not, patriotic electors, regard the threats of your landlords, when they tell you, they will turn you out of your dwelling. Remember what you never learned in *Horace*,

*Dulce et decorum est pro patria mori.*

It requires no fortitude above what every gross unprincipled fellow is master of, to die in a ditch for your country, with your wives and children about you.

‘Legislation (says *Blackstone*<sup>a</sup>) is the greatest act of superiority, that can be exercised by one being over another.’ How few then can be supposed qualified for such a momentous trust! But we put this trust in the hands of any man, however worthless, or incapable, who is able and willing to lay out a few thousands in the purchase of a borough.

*James I.* before a general election, directs, ‘that there be not chosen any persons banqueroutes, or outlawed; but men of known good behaviour, and sufficient livelihood,—nothing being more absurd in any commonwealth, than to permit those to have free voices for law-making, who, by their own acts, are exempted from the law’s protection<sup>b</sup>.’

None

<sup>a</sup> COMM. I. 46.

<sup>b</sup> PARL. HIST. V. 7.

None were to be eligible to parliament in *Cromwell's* time, but persons of known integrity, fearing God and of good conversation; no common scoffer or reviler of religion; none who denies the scripture to be the word of God; no common profaner of the Lord's day; no professed swearer or curser; no drunkard, haunter of taverns, ale-houses, or brothels, nor that shall hereafter drink healths, or be guilty of adultery, fornication, extortion, bribery, perjury, forgery, &c.<sup>a</sup> Here was such an exclusion-bill, as, if it had been put in force in our times, would have left *St. Stephen's* Chapel miserably depopulated. But how should the house be filled with proper members by improper electors? The lords rejected, *A. D.* 1702, after a second reading, a bill to provide, that no person be chosen a member of the commons, who has not a sufficient real estate. A great many lords protested against the rejection of so good a bill; because the design of it was, to prevent foreigners, and men of no property, from having the power of taxing the property of *Englishmen*<sup>b</sup>. But men of no property have now the power of taxing the property of *Englishmen*. For the members for the boroughs are four times as numerous as those for the counties.

There was much debating in the house of commons, *A. D.* 1770, upon a bill for settling what offences should be punished by incapacitation to sit in the house. If what judge *Blackstone* affirms, as above, be unquestionably true, it is a matter of supreme consequence, that only men of unquestionable characters be legislators. For my part, I should think a law

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<sup>a</sup> PARL. HIST. XX. 386.

<sup>b</sup> DEB. LORDS, II. 48.

for incapacitating every man of an ambiguous character, highly proper and necessary. We know how exact in that respect the antient heathens were. And it were a shame, that the professors of the purest of all religions should be more lax in principle than they. But how is it to be expected, that any particular regarding elections should be properly managed by such weak and influenced men as those, who send in the majority of the house?

‘Kings may make lords, and corporations, which corporations may send their burgesses to parliament,’ says *N. Bacon*\*. The annotator observes, on this, ‘Tho’ the king can make corporations, yet he cannot give them a right to be represented in parliament without the commons assent.’ I believe *Henry VIII.* and his termagant daughter did not ask the consent of the house of commons, when they gave to so many places the power of sending members to parliament. And if not, according to this author, those places have no legal right to send members. The miserable village of *Bassiney* was made a free borough neither by king nor queen, but by *Richard* earl of *Gloucester*, brother to *Henry III.* It sent members for the first time under *Edward VI.*† Surely we have no occasion to be encumbered by this paltry place, and its venal members. If a king’s brother, if even a sheriff of a county, can give privilege of sending members, surely a king can take away that mock privilege. Or if kings, and brothers of kings can give privilege to paltry boroughs in one age, then kings

\* *Disc. Gov. ENGL. Part II. p. 76.*

† *Deb. Com. XIII. 50.*

See above, p. 58.

king and their brothers can, in another more enlightened age, give privilege to respectable counties and great cities, to send up that number of representatives, which is found to be adequate to their respective contributions to the public expence. Our good king *George III.* (whom God preserve!) has as good a right, at least *in foro conscientie*, to give *London* 100 additional members, to give *Bristol* 20 additional, 20 to the county of *York*, &c. as our *Maties*, our *Elizabeths*, and our *Henries*, had to give a set of rotten boroughs the privilege of sending three times their adequate number. If a king has power in the 15th or 16th century, to do wrong, surely a king has power in the 18th to redress that wrong.

Suppose, for the experiment's sake, the cities of *London* and *Westminster*, and county of *Middlesex*, should join in a decent petition to the legislature, requesting, that the excessive number of members, which represents the county of *Cornwall*, may be transferred to the service of the inestimably opulent metropolitan cities and county, and their miserably inadequate representation to the inconsiderable county of *Cornwall*; or, in other words, that *London*, *Westminster*, and *Middlesex* may, for the future, be represented by 44 members (not half the adequate number) and *Cornwall* by 10. Suppose *Cornwall* to petition, that nothing may be changed. Here would be two counter-petitions before the legislature; one, of the most respectable property, that sends representatives to parliament, requesting what they have an undoubted title to; the other of a comparatively inconsiderable property, insisting to keep what undoubtedly they have no right to, have obtained in a surreptitious manner, and have kept a great deal too long.

long. Would the legislature listen to the latter, and reject the former?

*James I.* forbids sending members 'from such ruinous places, as have not sufficient resyantes [inhabitants] to make such choice'.

Were the privilege of election taken from the boroughs, there would be less occasion for a place-bill. For large bodies of the independent people would not elect, or re-elect place-men.

'Most of the great counties and chief cities chose men who were zealous for the king and government, *A. D.* 1701, but the rotten parts of our constitution, as an eminent author styles the small boroughs, were in many places wrought on to chuse bad men<sup>b</sup>.

'Before bribery, or meat, drink, insinuation, and artifice prompted to the mean and poor sorts of burgeses a right, which antiently they never dreamed of, there were no contests between them and the communities or commonalties, that is, the governing part of cities and burghs, about the election of citizens and burgeses to represent them in parliament, seeing, when they received wages, it was a burden to those, who chose and sent them. And it is not easily to be imagined, that poor and ordinary men would contend for a burthen, or a trouble. — There was then no striving for votes, or making parties to be elected'. No invention could have been thought of more favourable to court-influence in parliament, than giving so great importance to the beggarly boroughs. They are the creatures of the court. That is, they receive their privilege from kings; and the burgage

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<sup>a</sup> *PARL. HIST.* v. 7.      <sup>b</sup> *Find. CONTIN.* f. 497.

<sup>c</sup> *Brady, i.* Of BURGH, 75.

burgage tenures in them generally belong to men of fortune, who have power to oblige the inhabitants of these burgage-houses to elect whom they please. And the court having great funds at its disposal, ambitious and avaritious men are thereby drawn to the court-side in promoting the election of courtly men. But above all, the easiness of bribing a small handful of voters, who have the privilege of sending two members, is ruinous to the independency of the house of commons.

In the year 1742, there came before the lords a bill for quieting corporations, occasioned by an appeal to them from the violence used by *Walpole*, in order to compel the election of some of his creatures for *Weymouth*. That arch-corruptor had endeavoured to intimidate the corporation by threatening their charter. A minister cannot by any such means influence a county, or a great city. ‘ Many of our boroughs (says my lord *Chesterfield* in speaking on that subject) are now so much the creatures of the crown, that they are generally called court-boroughs, and very properly they are called so. For our ministers for the time being have always the nomination of their representatives, and make such an arbitrary use of it, that they often order them to chuse gentlemen, whom they never saw, nor heard of, perhaps, till they saw their names on the minister’s order for chusing them. These orders they always punctually obey, and would, I suppose, obey them, were the person named in them the minister’s footman, then actually wearing his livery. For they have, we know, chosen men, who have but very lately thrown the livery off from their backs; but never can throw it off from their minds.’

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March

March 18, 1742, a bill for regulating elections for cities, and boroughs, was put off for a month \*. The author of *FACTION DETECTED BY FACTS*, thus accounts for the loss of this popular bill: 'The true reason why this bill was not passed was one, which equally affected all parties, and which will everlastingly prevent an effectual bill of this kind; and this arises from the various rights of election, which are so numerous, that they distract and confound the different interests of gentlemen, which, to speak fairly on all sides, induces them, by one plausible pretence or other, for their private regard, to oppose or to propose, so many different clauses, that such bills become at last impracticable and unpalatable to all.—The burgage-tenures too, which gentlemen will neither part with, nor can tell how to regulate, are another invincible obstruction; and the powers and the penalties create farther difficulties, which no human wisdom has yet been able to surmount.' The plain *English* of all this is, that a majority of the members of both houses were, thirty years ago (not in our golden days) so sordidly selfish in their dispositions, that rather than lose a trifling privilege or profit, they would suffer their country to sink in a quick-sand of corruption. It is to be hoped, that this shocking account of the state of patriotism thirty years ago, was not true. But however the truth may have been, it is particularly remarkable, that an author, who wrote on purpose to shew, that the clamour of the people was groundless, should incautiously confess, that the majority of the legislature was so execrably corrupt,

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\* DEB. COM. XIV. 258.

corrupt, that there was great and weighty ground for clamour.

Lord *North* and *Grey* was against the union, because *Scotland* was to have twice the number of representatives; and to pay only half the tax paid by *Wales*, though *Wales* was as poor, and much less in extent. Lord *Hallifax* answered, that *Cornwall* did not pay above one fifth of what *Glocestershire* did, and sent five times as many members<sup>a</sup>.

A state or commonwealth, says *Milton*<sup>b</sup>, 'is a society sufficient of itself in all things conducive to well-being and commodious life.' Will this definition answer to *Britain* as parliaments now are? when all depends on a set of men authorised by a very small minority both as to numbers and property?

It is a common maxim in politics, that in every state there must be somewhere an absolute and irresistible power over the people. But this is to be rightly understood, or it will lead to mistakes. In a monarchy, as *France*, the whole power is in the king against all other voice. This is proper tyranny. At *Venice* it is in the nobles exclusively. This is proper aristocracy, or oligarchy. In *Holland* (excepting some errors and deviations) the whole power is in the states, that is, or should be, the people; but it does not descend low enough, and leaves the bourgeoisie considerably enslaved. In *England* the whole power is in king, lords, and commons. Therefore in monarchies the people, the chief object, have no share of power. In oligarchies the people have as little. In republics the people have a share of power. But in our mixed government the people are swallowed up in king, lords, and commons. To say, therefore, that

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there

<sup>a</sup> DEB. LORDS, II. 173.<sup>b</sup> EIKONOC. 135.

there must be in every country an absolute power somewhere *over the people*, and in which they are to have no share, is making the people mere beasts of burden, instead of what they are, viz. the original of power, the object of government, and last resource. Our courtly people, therefore, to quiet our minds on this subject, tell us, we have a very great share in governing ourselves, as we elect our law-makers. We have seen, what this amounts to. And if any *Englishman* is satisfied with the view I have given of parliamentary representation, I can only say, he is thankful for small mercies.

There will be occasion to exhibit much more on this subject in the following chapters on *Corruption, &c.*

#### CHAP. VII.

*Inadequate Representation universally complained of: Proposals by various Persons for redressing this Irregularity.*

**T**HE monstrous inequality of parliamentary representation has not escaped unobserved. And there have been attempts made to reform it.

‘To what gross absurdities, (says Mr. *Locke* \*) the following of custom, when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheep-cot, or more inhabitants than a shepherd, are to be found, send as many representatives to the grand assembly of law-makers, as a whole county numerous in people, and powerful in riches.’ He afterwards shews (contrary

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\* ON GOVERNMENT, chap. XIII. § 157.

to the common objection, That this deviation must not be corrected, because such correction would produce a violation of the constitution) that restoring adequate representation, would be precisely what is wanted toward establishing the constitution on its true and original principles. ' This irregularity of representation strangers stand amazed at, and every one ' must confess, needs a remedy, though most think it ' hard to find one, because the constitution of the ' legislative being the original and supreme act of the ' society antecedent to all positive laws in it, and, ' depending wholly upon the people, no inferior ' power can alter it; and therefore the people, when ' the legislative is once constituted, having, in such ' a government as we have been speaking of, no power ' to act, as long as that government stands; this ' inconvenience is thought incapable of a remedy.

' *Salus populi suprema lex*, is certainly so just and ' fundamental a rule, that who sincerely follows it ' cannot dangerously err. If therefore the executive, ' who has the power of convoking the legislative, ' observing rather the true proportion, than the fashion ' of representation, regulates, not by old custom, but ' true proportion, the number of members in all ' places, that have a right to be distinctly represented, ' which no part of the people, however incorporated, ' can pretend to; but in proportion to the assistance it ' affords to the public; it cannot be judged to have ' set up a new legislative, but to have restored the old ' and true one, and to have rectified the disorders, ' which the succession of time had insensibly, as well ' as inevitably introduced. For it being the interest, ' as well as the intention of the people, to have a fair ' and equal representative, whoever brings it nearest ' to that, is an undoubted friend to, and establisher of ' the

the government, and cannot miss the consent and approbation of the community. Prerogative being nothing but a power in the hands of the prince to provide for the public good in such cases, which depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct; whatsoever shall be done manifestly for the good of the people, and establishing the government on its true foundation, is, and always will be, true and just prerogative. The power of erecting new corporations, and therewith new representatives, carries with it a supposition, that, in time, the measures of representation might vary, and those places have a just right to be represented, which before had none, and by the same reason, those cease to have a right, and become too inconsiderable for such a privilege, which before had it. It is not a change from the present state, which perhaps corruption, or decay, has introduced, that makes an inroad upon government; but its tendency to injure and oppress the people, and to set up one part, or party, with a distinction from, and unequal subjection to the rest. Whatsoever cannot but be acknowledged to be of advantage to the society and people in general, upon just and lasting measures, will always, when done, justify itself, and whenever the people shall choose their representatives upon just and undoubtedly equal measures, suitable to the original frame of the government, it cannot be doubted to be the will and act of the society, whoever permitted or caused them to do it.

Mr. *Locke* hints, in this passage, the propriety of our kings applying their prerogative to the restoring of

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<sup>a</sup> *Locke* on GOVERNMENT, fol. edit. p. 220.

of a more adequate representation. Nor is there any thing unreasonable in the proposal; since it is notorious, that a great part of the monstrous disproportion of representation in parliament, is owing to the caprice of our crowned heads in opening the house of commons to numbers, who had no original right to enter it. And if, in order to restore the balance, we were to disfranchise 50 or 60 of the beggarly boroughs, we should do nothing unprecedented. For *Willis*<sup>a</sup> gives an account of above 60 ‘*disused or obsolete boroughs*’ and towns, which were *antiently* summoned to send ‘members to parliament,’ viz. *Donestable, Newbury, Ely, &c.* Where are now the members for those places? They would have made, he says<sup>b</sup>, ‘a parliament near half as numerous as the representative of the burghs was before *Edward VI.*’ If our former kings and queens filled and emptied the house of commons at their pleasure, why should not our modern crowned heads have power to set right what they set wrong, either by diminishing (with consent of parliament) the exorbitant number of borough members, or increasing the representation of the counties, adding members to *London, Westminster, and Southwark,* to *Bristol, to Liverpool, &c.* or by some means, or other, take legislation out of the hands of the beggars, and put it into those of men of property.

‘It is plausibly urged,’ says a speaker in the house of commons<sup>c</sup>, ‘that the voice of the nation is only to be heard in this assembly [the house of commons]; but plausibility is one thing, and truth another. This assembly does not constitute a *real* representative

<sup>a</sup> NOT. PARL. III. 81.

<sup>b</sup> Pref. p. xxx.

<sup>c</sup> LOND. MAG. June, 1771, p. 287.

‘tive of the kingdom. The metropolis, for instance, which contains at least a 6th part of the people, sends to parliament only 8 members, and many of the principal trading towns send none.’

‘A great inconvenience springs from the constitution of the boroughs,’ (says a writer in the time of king *William*.) ‘which elect not by virtue of their wealth, dignity, or number of inhabitants, but by the borough-houses, in which they live; these only (which perhaps are the most inconsiderable part of the borough) having in them the electing power exclusive of the rest. This qualification makes such houses sell better to a purchaser, than any others in the town; and it is customary for gentlemen, who are desirous of a seat in parliament, to lay out their money in such bargains, and though it costs them dear, yet, if it be possible, they will be land-lords of a sufficient number of these borough-houses (in the purchase whereof some friend’s name is mostly made use of in trust) that thereby they may command an election either for themselves, or their assigns, at pleasure. And what is this less than buying of votes with money?’ This is what is called the rotten part of the constitution. It cannot continue the century. If it does not drop, it must be amputated, said lord *Chatham*, in his speech on the stamp-act.

*Cromwell*’s plan of a parliament<sup>b</sup> was briefly as follows: The period triennial; the whole number of members to be 400 for *England* and *Wales*; 30 for *Scot*.

<sup>a</sup> STATE TRACTS, time of K. *William*, l. 161.

<sup>b</sup> *Whitelocke*’s MEMOIRS, 552.

Scotland, and 30 for Ireland. The number of members for some of the most remarkable places was as follows; *Cornwal* 12, *Devonshire* 20, *York* 22, *Essex* 16, *Kent* 18, *Middlesex* 6, *London* 6, *Bristol* 2. He also intended members for several places, which now send none, as *Manchester*, &c. Every reader will observe, that this scheme was far from being an adequate representation, though much preferable to the present. Of the 400 *English* members, 270 were county-members; which gave the counties the advantage they ought to have over the boroughs; whereas in our times the borough members out-number those for the counties 4 times over. Every person worth 200 *l.* real or personal was to have right of voting; whereas in our times, hardly any, but beggars, have weight in appointing the representative. *Fairfax* in his scheme for settling the nation, proposes adequate representation by counties\*. *Lord Chatbam* has proposed, that a third member be added to the representation for each county. This would be of service; but would not redress the evil. For representation would be still out of proportion, as the borough members would still out-number those for the counties. *Lord Malafworth* is for transferring the members for the mean boroughs to the great places. *Mr. Hume* proposes<sup>b</sup>, as an improvement of the *British* constitution, the restoration of the plan of the republican parliament, and allowing no person to vote, who did not possess a property [he does not confine it to land] of 200 *l.* value. *Mr. Carte* proposes, for equalling representation, to give all persons possessed of property within the *hundred*, in which is a small borough (which now of  
itself

\* *PARL. HIST. XVI. 295.*<sup>b</sup> *ESSAYS, II. 375.*

*itself* sends two members) a right of voting equally with the men of the borough; and to make the steward, or judge of the hundred-court a joint returning officer with the present borough-officer. This would render bribery more difficult, than it is, but would not make parliamentary representation adequate.

On this subject the author of the DISSERT. UPON PARTIES\*, reasons as follows: 'At the settling of the revolution, those persons, who had exclaimed so loudly against placemen and pensioners in the reign of Charles II. and who complained at that instant so bitterly of the undue influence that had been employed in small boroughs, chiefly to promote the elections of the parliament which sat in the reign of James II. ought to have been attentive, one would think, to take the glorious opportunity, that was furnished them by a new settlement of the crown, and of the constitution, to secure the independency of parliaments effectually for the future. *Machiavel* observes, and makes it the title of one of his discourses, That a free government, in order to maintain itself free, hath need every day of some new provisions in favour of liberty. The truth of this observation, and the reasons that support it, are obvious. But as every day may not furnish opportunities of making some of these new and necessary provisions, no day, that does furnish the opportunity, ought to be neglected. The *Romans* had been so liberal in bestowing the right of citizens on strangers, that the power of their elections began to fall into such hands as the constitution had not intended to trust with them. *Quintus*

' *tus Fabius* saw the growing evil ; and being censor,  
 ' he took the opportunity ; confined all these new elec-  
 ' tors into four tribes, put it out of their power to turn  
 ' the elections, as they had done whilst their numbers  
 ' were divided among all the tribes ; freed his country  
 ' from this danger ; restored the constitution accord-  
 ' ing to the true intent and meaning of it ; and ob-  
 ' tained, by universal suffrage, the title of *Maximus*.  
 ' If a spirit like this had prevailed among us at the  
 ' time we speak of, something like this would have  
 ' been done ; and surely something like it ought to  
 ' have been done, for the revolution was in many  
 ' instances, and it ought to have been so in all, one  
 ' of those renovations of our constitution which we  
 ' have often mentioned. If it had been such with  
 ' respect to the electing of members to serve in par-  
 ' liament, these elections might have been drawn back  
 ' to the antient principle, on which they had been  
 ' established ; and the rule of property, which was  
 ' followed antiently, and was perverted by innumerable  
 ' changes which length of time produced, might have  
 ' been restored, by which the communities, to whom  
 ' the right of electing was trusted, as well as the qua-  
 ' lifications of the electors and the elected, might have  
 ' been settled in proportion to the then present state of  
 ' things. Such a remedy might have wrought a  
 ' radical cure of the evil which threatens our consti-  
 ' tution ; whereas it is much to be apprehended, even  
 ' from experience, that all others are merely palli-  
 ' ative.

' *Brady* \* mentions resolutions of the house of com-  
 ' mons, That in all places, where there is neither char-  
 ' ter,

ter, nor immemorial custom, to the contrary, every householder has a right to vote for members. In some instances, prescription for confining the right of election to the bailiffs and capital burgessees, excluding householders in general, have been disallowed by the house\*. But the resolutions of the house on this, as on many other points, are often inconsistent. *Brady* (who shews great fear lest the people should have any liberty, or power) thinks the commons founded this resolution so favourable to the people, on a mistake as to the sense of the phrase, *communitas civitatum et burgorum*; which meant, he thinks, the governing part of cities and burghs, not the householders in general. But surely it is more for the advantage of liberty, that election be in *many*, than few, hands; as it is harder to *bribe* many than a few.

We see what light this grievance of inadequate parliamentary representation has been viewed in by the best politicians. If therefore judge *Blackstone* did, at the time he wrote the 172d page of the first vol. of his *COMMENTARIES*, recollect the miserable state of representation in our times, it is inconceivable how he could bring himself to write as he has done. ‘Only  
 ‘ such are entirely excluded, from voting for members,  
 ‘ says he, as can have no will of their own’ [meaning poor and dependent people without property]. ‘ There  
 ‘ is hardly a free agent to be found, but what is  
 ‘ entituled to a vote in some place or other in the  
 ‘ kingdom.’ Did the learned judge consider, what he himself has observed, that the borough-members are four times as numerous, as the county-members; that

a few

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\* *Brady*, 1. OF BURGHS, 60.

a few thousands of electors send in the majority of the house; that in many places a handful of beggars sends in as many members as the great and rich county of *York*, or city of *Bristol*? Did the learned judge consider these shocking absurdities, and monstrous disproportions, or did he consider the alarming influence the court has in parliament, when he wrote what follows, viz. 'If any alteration might be wished, or suggested in the present frame of parliaments, it should be in favour of a more complete representation of the people.' What! are we to be put off with a cold If, in a case where our country lies bleeding to death? 'If any alteration might be wished—Let us go on then, and say, If the deliverance of ourselves and our posterity from destruction might be wished; if any alteration of what must bring us to ruin might be wished—any alteration from a mockery rather than the reality of representation—any alteration from 300 placemen and pensioners sitting in the house of commons—any alteration from a corrupt court's commanding the majority of the elections into the house, and of the votes, when in it—any alteration from the parliament's becoming a mere outwork of the court—If it is, at last to be doubted, whether the saving of our country is to be wished, what must become of us? Had a hackneyed court-hireling written in this manner, it had been no matter of wonder. But if the most intelligent men in the nation are to endeavour to persuade the people that there is hardly room for a wish; that there is scarce any thing capable of alteration for the better, (the judge's four volumes are a continued panegyric) at the very time when there is hardly any thing in

the condition, it ought to be in, at the time when we have upon us every symptom of a declining state, when we are sinking in a bottomless gulf of debt and corruption, the spirit of the constitution gone, the foundations of public security shaken, and the whole fabrick ready to come down in ruins upon our heads— if they who ought to be the watchmen of the public weal are thus to damp all proposals for redress of grievances—*Quo res summa loco?* In what condition is this once free and virtuous kingdom likely soon to be?

## B O O K III.

Of the second Constitutional Irregularity in our Parliaments, viz. The excessive Length of their Period.

## CHAP. I.

*Parliaments were originally annual.*

‘**W**HERE annual election ends, slavery begins,’ says the author of HISTOR. ESS. ON THE BRIT. CONST. A maxim of equal solidity in politics with that of my late amiable friend Dr. *Foster* in divinity, viz. ‘Where mystery begins, religion ends.’ Long parliaments are incompatible with liberty. To give a set of men power for a long period of time, is giving them the hint, that they may make themselves despots, if they please. Kings and grandees are tyrants only because they know they have their power during life. But of the danger of inveterate power I shall have occasion to treat more fully hereafter.

Parliaments, according to *Posslethwayte*\*, were originally annual; and antiently all the people voted at elections, till *Henry VI.* enacted, that only freehol-

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\* DICT. II. 413.

ders residing in the country, and who had an income of 40 s. a year, should vote. ' That parliaments were ' formerly chosen fresh and fresh, is evident ; since there ' be writs extant for new elections for 80 years successively ;' says the learned writer of a piece entitled, *LIMITATIONS FOR THE SUCCESSOR, &c.*<sup>a</sup>

In the *Saxon* times it cannot well be supposed, that parliaments could be longer than annual, were it only for one reason, viz. That the members of their *wit-tena gemots*, or parliaments, were mayors, or officers, who held their offices only one year, at the end of which they were obliged to divest themselves of all power, and to assemble the people for new election. ' It was agreed, that a parliament should be held ' twice every year at *London*, and this continued from ' king *Alfred's* time to that of *Edward II.* as appears ' by *Horn's MIRR. OF JUST.* chap. I. sect. 2. <sup>b</sup> ' *A. D.* 1378, a parliament was called, because, among other reasons, it was constitutional, that parliaments should be held annually <sup>c</sup>. The commons, *A. D.* 1640, regret, they had not made parliaments annual, instead of triennial. By two statutes, they say, they found parliaments once a year still in force <sup>d</sup>. When the triennial bill was established, in the time of *Charles I.* after an intermission of 12 years, the king, in the genuine spirit of a *Stuart*, made a merit of his agreeing to the bill. The commons would not allow it ; but insisted, that there were then in force two statutes for annual elections. ' The bill for triennial parliaments, says *Milton* <sup>e</sup>, was but the *third* part of one ' good step towards that which in times past was our ' annual

<sup>a</sup> STATE TRACTS, Time of K. Will. III. 386.

<sup>b</sup> Ibid. I. 163.

<sup>c</sup> PARL. HIST. I. 370.

<sup>d</sup> Rap. II. 394.

<sup>e</sup> Milt. Eikon. 64.

‘annual right.’ *Milton*<sup>a</sup> says this triennial bill of which *Charles* made a great merit, was much less than two statutes yet in force of *Edward III.* Nay, in a book, entitled, *THE RIGHTS OF THE KINGDOM*, the *MIRROR OF JUSTICES* is quoted, that parliaments by the old laws, ought to be held twice a year. If so, we are deprived of 13 parts in 14 of our antient privilege.

*Sir William Wyndham*, in the debate on the repeal of the septennial act, *A. D.* 1734, gives the true account of this matter. ‘At the time of the revolution, says he, nay at the present time, at all times, the word *parliament* in the common way of speaking comprehends all the sessions from one election to another. That this is the common meaning of the word, I appeal to every gentleman in this house; and for this reason those patriots, who drew up our *CLAIM OF RIGHTS*, could not imagine that it was necessary to put in the word *new*; they could not so much as dream that the two words, *frequent parliaments*, would afterwards be interpreted to mean frequent sessions of parliament, but the lawyers, who are accustomed to confound the sense of the plainest words, immediately found out that a session of parliament was a parliament; and that therefore the words *frequent parliaments*, meant only frequent sessions. This quirk the lawyers found out immediately after the revolution; this quirk the courtiers at that time caught hold of; and this set the people anew upon the vindication of their rights, which they obtained by the triennial bill. By that bill the right of the people to frequent *new* parliaments was

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<sup>a</sup> *EIKON.* 65.

‘established in such clear terms, as not to be misunderstood, and God forgive them who consented to the giving it up’.

The answer given by the king (that is, the minister) to the remonstrances requesting the dissolution of a supposed corrupt parliament, *A. D.* 1770, was, ‘That the remonstrances were disrespectful to his majesty, injurious to parliament, and irreconcilable with the principles of the constitution.’ It were to be wished, that the public had been better satisfied of the justness of this answer. Does not the very idea of petitioning imply acknowledgment of *superiority* in the person addressed to? Were not the remonstrances addressed to the king by his titles of sovereignty? Was not an appeal to the sovereign from a supposed corrupt ministry and parliament doing *honour*, nay, was it not doing the *highest* honour in the power of the remonstrants, to the throne, and to the *person* of the king, as supposing, that from him *alone* there was hope of redress? Again, what injury to parliaments in *general* was done by requesting the dissolution of a *particular* parliament? If the members had acted uprightly, it was to be expected, that their constituents (if free) would immediately re-elect them, which instead of disgrace, would have reflected the highest *honour* upon them. If indeed it had been confessed, that many members, from a consciousness of their corrupt practices, had reason to fear the loss of their seats, the case was otherwise: but this was too shameful to confess. Or if it had been said, that a majority of the electors, being dependent on their members, or obnoxious to bribery, would of course have re-chosen the same men, at worst the dissolution of the parlia-

parliament would have been nugatory. But it would have shewed the people, that the king was willing to listen to the request of 60,000 of his subjects. Lastly, as to the remonstrances being irreconcilable with the principles of the constitution; it is strange that there should be any thing *unconstitutional* in requesting the king to do what the *constitution* gives him a power to do at *any time*; what *William III.* did in compliance with a petition from one county; what *George II.* did without solicitation, and without blame, when he dissolved one of his parliaments at the end of the 6th session, with the view, according to some, of preventing the irregularities of a long electioneering time. It is strange that there should be any thing unconstitutional in the king's *dissolving* a parliament at the request of 6 times the number and 60 times the property that *made* them a parliament. It is strange, that there should be any thing unconstitutional in dissolving a parliament which had sat *several years*, when we know, that the *length* of parliaments is one of our greatest grievances, and that our kings could not any way more effectually shew themselves to be the *friends* of the *constitution*, than by regularly dissolving every parliament at the end of the *first* session.

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## CHAP. II.

### *Brief History of the lengthening and shortening of Parliament.*

Parliaments seldom sat, in former times, many months. 'In one year there were sometimes 2, sometimes 3 parliaments,' says Sir *Simon Dewes* on

the poll-tax before the lords in 1641<sup>a</sup>. 'The longest parliament ever yet held,' viz. almost a whole year, under *Hen. IV.* was three times prorogued, which was then an innovation<sup>b</sup>. An act was made 4 *Edw. III.* cap. 14, for holding parliaments yearly, or oftener, if necessary. Again by 36 *Edw. III.* cap. 10. 'They knew not, in those days, the fashion of prorogations. Therefore parliaments then were annual. The unthinking people of *Charles II.*'s time were contented if there was no interruption of parliaments, longer than for three years. 'Henry VIth's reign was the first, in which prorogations began to be made for any time, and they were but very little used till Henry VIIIth's time. The usual way formerly was to call a parliament at least once a year, and as soon as the business was done, to dissolve them<sup>c</sup>. 'Henry VIII. first lengthened parliament beyond three years, as the most effectual means for rendering the members obedient to his will. Annual parliaments were restored by *Phil.* and *Mary*, after an intermission of two years<sup>d</sup>.

*Charles, A. D.* 1640, makes a mighty merit of giving his assent to the bill for triennial parliaments, before any subsidy granted to him<sup>e</sup>. Great joy, and both houses waited on the king with thanks<sup>f</sup>. This salutary law was repealed 16 *Car. II.* therefore is not in the STATUTES AT LARGE. The purport of it is to restore the laws by which parliaments ought to

<sup>a</sup> PARL. HIST. IX. 439.

<sup>b</sup> Ibid. II. 107.

<sup>c</sup> STAT. AT LARGE, I. 196, 292. PARL. HIST. II. 314.

<sup>d</sup> See REASONS FOR ANNUAL PARL. ST. TRACTS, time of K. *William*, III. 290.

<sup>e</sup> PARL. HIST. III. 341, 349.

<sup>f</sup> *Hume's Hist. Stuarts*, I. 259. PARL. HIST. IX. 218.

<sup>g</sup> PARL. HIST. IX. 220.

to be held annually. It enacts, that if the chancellor does not issue out writs, any 12 peers shall in the king's name; failing them, the sheriffs, mayors, bailiffs, &c. shall cause elections to be made; they neglecting, the electors shall proceed as if writs had been regularly issued. It had been happy if the people had been constituted with authority to make laws, when the legislature did not their duty. The preamble to the repeal of this salutary law, puts it upon the derogation it is from the king's prerogative. As if the *salus populi* were not of infinitely more consequence than the king's prerogative, whose only value is its usefulness to the *people*.

The army demanded, *A. D.* 1647, that parliaments should be triennial, and the dissolution of them not in the king's power. A representative according to the contributions respectively paid to the public by counties; and that improper members be expelled\*. The army at this time seem to have been the most reasonable set of men in the nation. Before *Charles I*'s time the members of the house of commons never dreamed of their having power to continue themselves in office one hour beyond the time limited by their constituents.

The author of *HISTOR. ESSAYS ON THE ENGL. CONSTIT.* is too severe against the long parliament which opposed *Charles I*. They certainly meant honestly, having no byas to draw them from the public interest, though they sat too long, fearing, perhaps, that their successors might not be as faithful as themselves. It was much more clearly disinterested than the protracting of parliament from triennial to septennial for the pretended fear of a jacobite parliament. He says it was madness in the people to rejoice upon the

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\* *Macaul.* IV. 329.

the king's consenting, for 600,000 *l.* raised for him, not to dissolve parliament without their own consent. This was the first protraction of the period of parliament, and taught ill designing ministers to imitate it. It is an evil of kingly government, that through fear of tyranny, well meaning people have often consented to what was unconstitutional. So in the alteration from triennial to septennial, jacobitism, or an attachment to a race of *kings*, was the cause of the irregularity.

The triennial bill was repealed, *A. D.* 1664, and instead of it a law to prevent parliaments having vacations of more than three years<sup>a</sup>. One would think all memory of *James I.* and *Charles I.* was miraculously obliterated out of the minds of the people of *England*. It was but 15 years before that *Charles I.* was beheaded; and the people (or the parliament at least) were for trusting their all again to kings. The long, or pensioned parliament meets 1661, agreeable to the court, and says *Rapin*, 'without doubt by the influence of the court.' Great part were high church men and royalists. Pensioning begun afterwards, tho' at the beginning of this parliament they shewed a great partiality for the king<sup>b</sup>. The commons threw out a bill for shortening parliaments. The lords send down another: Rejected likewise, *A. D.* 1693<sup>c</sup>. Parliaments were made triennial by 6 *William III.* cap. 2.<sup>d</sup> In that reign they were often dissolved at the end of the first session. 2 *George I.* they were made septennial. The pretence was, the danger of a Jacobite house of commons: The real reason, that they, who were in power, chose to continue in power. The triennial

<sup>a</sup> *Rapin*, II. 635. *Deb. Lords*, I. 66.

<sup>b</sup> *Rapin*, II. 625.

<sup>c</sup> *Tind. Contin.* I. 249.

<sup>d</sup> *Stat. at Large*, III. 173.

triennial bill receives the royal assent, *A. D.* 1694.<sup>a</sup> And the historian observes, that if our good king had not done it that day (queen *Mary* just taken ill of the small-pox, of which she died) it is probable he never would have given it the royal assent. So indifferent are even our best kings about bills tending to the enlargement of the people's liberty. At the same time, it must be owned, *William* had some reason to dread a change of parliaments. The abbe *Reynel* tells us<sup>b</sup>, that when this triennial bill was under consideration, queen *Mary* desired lord *Bellamont*, her treasurer, to oppose it. He refused. He was desired only to be *neutral*. He proved, on the contrary, very active in promoting the bill. The queen dismissed him from his post. He retired to privacy and frugality. The queen, overcome by his obstinate virtue, offered him a pension. He declined it, saying, He had no right to a reward, as he did no service. It is wonderful, that *George I.* should so easily obtain the repeal of so favourite an act. A strong clause was added by the lords to the bill of rights, excluding effectually all popish successors to the throne. Passed *easily* by the commons, which looks as if the tory and popish parties had not been so strong in the house and kingdom as those who brought in the septennial bill pretended. This was *A. D.* 1689, and septennial parliaments were established *A. D.* 1716.<sup>c</sup> It is hardly to be imagined that there should be more danger from Jacobitism in 1716 than in 1689, the very year after *James's* abdication. All this shews how slimzy the pretences are for what is big with so much evil. So *Julius*  
*Cæsar*

<sup>a</sup> *Tind. CONTIN.* I. 260.

<sup>b</sup> *HIST. PARL. ENGL.* 272.

<sup>c</sup> *Tind. CONTIN.* I. 55.

*Cæsar* was appointed, by the senate and people of *Rome*, dictator for 6 months. He made himself perpetual dictator. All the world condemns this tyrannical proceeding. The house of commons, 2 *George I.* was elected, as usual, for three years. They elected themselves for four years more, without leave of their constituents, given, or even asked ! O ! but the danger of a Jacobite parliament, if a new election was brought on ! True. And in the same manner *Cæsar*, in his civil war, tells us, he feared *Pompey's* tyranny ; if he himself resigned the dictatorial power. Some authors tell us, the septennial act was made on purpose to save an odious ministry, who dreaded a new and incorrupt parliament. Thirty lords (even lords !) protested against the septennial act. And Mr. *Snell* told the house of commons, they might as well make themselves perpetual at once, as continue themselves one month beyond the time, for which they were elected.

It was a singular modesty in the lords to originate in their house an act relating to the commons. Therefore lord *Guernsey* moved the commons, to throw it out of the house, without reading it. It was answered, That the triennial act had originated in the house of peers. [But if they were allowed to make a *salutary* proposal concerning what they had nothing to do with, it does not follow, that they are to be suffered to go out of their way to do *mischief*<sup>a</sup>.] Carried 276 to 156 for a second reading, the *Tuesday* after. Petitions were sent from many towns against it. And when this self-prolonged parliament (which, says the author of the *USE AND ABUSE OF PARLIAMENT*<sup>b</sup>, 'went farther in impoverishing and enslaving

<sup>a</sup> *DEB. COM. VI. 68.*

<sup>b</sup> *I. 251.*

‘ing their fellow-subjects, than all their predecessors ‘from the restoration,’) came at last to be dissolved, the cities of *London* and *Westminster*, with bells, bonfires, illuminations, and every other demonstration of joy, celebrated its demise, as a deliverance from their worst enemies.

The motion for repealing the septennial act, *A. D.* 1742, was opposed by *Pultney* and *Sandys*. (I suppose the patriots were afraid a new parliament might not be so staunch against Sir *Robert*.) Rejected, 204 against 184. The proposal was made by Sir *John Barnard*, which gives me a better opinion of him, than of *Pultney* and *Sandys* <sup>a</sup>.

*A. D.* 1744, a motion was made for annual parliaments <sup>b</sup>. Passed in the negative 145 to 113. Therefore 113 thought it right. Let not then the proposal of annual parliaments be thought *romantic*.

A motion was made, *A. D.* 1747, for leave to bring in a bill for shortening the term and duration of future parliaments: ‘a measure truly patriotic, against ‘which no substantial argument could be produced, ‘although the motion was rejected by the majority, ‘on the pretence that whilst the nation was engaged ‘in such a dangerous and expensive war, it would ‘be improper to think of introducing such an alteration in the form of government <sup>c</sup>.’ This was setting common sense upon its head. The danger of the times is the very best reason for making salutary alterations, and abolishing *dangerous* abuses.

Parliament was dissolved at the end of the 6th session, 1747, for a whimsical reason, according to some, *viz.*

<sup>a</sup> *DEB. COM.* XIII. 219.

<sup>b</sup> *Alm. DEB. COM.* II. 1—63.      <sup>c</sup> *Ibid.* v. 221.

*viz.* because the *Dutch* were in doubt, whether *Britain* would persevere in her schemes, which were favourable to them, if the same parliament continued to sit. I should have thought the danger of a change of counsels was in case of a *change* of parliament<sup>a</sup>. Some said, as above observed, it was done to shorten the time, and lessen the mischiefs of electioneering. The king in his speech pretends that he dissolved the parliament to shew his intire confidence in the affections of his people, and that he did not depend merely on a particular set of men in the house of commons<sup>b</sup>.

Thus it appears that parliaments were originally renewed *every year*, and that a parliament and a session were the same thing. That they held on in this way with little variation, to the times of *Henry VIII.* That annual parliaments were restored under *Philip and Mary*. That they were made triennial, *A. D.* 1649. That in the time of the troubles under *Charles I.* they were very irregular, and protracted to an enormous length; the house of peers abolished, and the rump, or remainder of the commons, kicked out by *Cromwel.* That under *Charles II.* *A. D.* 1664, the triennial bill was repealed, and the period of parliaments left to the arbitrary pleasure of the prince. That his long, or pensioned parliament met, *A. D.* 1661; and sat above 18 years. That the period of parliament was reduced back to triennial 6 *William III.* *A. D.* 1694<sup>c</sup>. And that, *A. D.* 1716, 2 *George I.* they were protracted to septennial, at which period they have continued ever since, in spite of innumerable remonstrances against a grievance so universally confessed, and so notoriously mischievous. Of which more fully elsewhere.

<sup>a</sup> *Alm. DEB. COM.* III. 52.

<sup>b</sup> *Ibid.* 54.

<sup>c</sup> *STAT. AT LARGE,* IV. 675.

Chap. III. DISQUISITIONS.

CHAP. III.

*Example of several Nations, who have shewn a fear of inveterate Power.*

SOME few nations have shewn some small degree of apprehension from power continued in the same hands, knowing, that there can be no liberty, unless they, who make the laws, be well assured that they shall come, by and by, to be subject to their own laws.

*Aristotle*<sup>a</sup> mentions, as the chief cause of the subversion of free states, their deviating from the principles, on which they were originally constituted. Περὶ δε σπορνίας, κ. τ. λ. He tells us, the *Thurians* had a salutary law, by which the same person could not be twice prætor without an intermission of five years. They suffered this law to be abrogated. Their state, from that fatal time, declined to its ruin<sup>b</sup>. Συμπε-  
δε τῆτο, κ. τ. λ.

The *Athenians* finding that their kings, trusting to the perpetuity of their power, began to stretch prerogative, abolished the regal office, and set up *archons*, who were to reign 10 years, and then to be subjects. But the people finding even this period [which is not much beyond that of our parliaments] too long, changed their plan of government, and appointed 9 *archons*, to reign one year<sup>c</sup>. The *Athenian epistates*, the chief of the *prytanes*, was in office only one day, and never more than once<sup>d</sup>. The 10 *cosmi*, or supreme magistrates of the *Cretans*, were annual<sup>e</sup>.

All

<sup>a</sup> POLIT. v. 8.

<sup>b</sup> Ibid.

<sup>c</sup> Ubb. Emm. DE REP. ATHEN. i. 16.

<sup>d</sup> Ant. Thys. DE REP. ATHEN. 251.

<sup>e</sup> Ubb. Emm. ii. 63.

All the magistrates of the *Ætolians* were annual <sup>a</sup>. The king and people of *Epirus*, during the age of their liberty, were accustomed to meet once in the year, the king to renew his coronation oath, and the people their allegiance <sup>b</sup>. The *Carthaginian* *suffetes*, or chief magistrates, held their power only one year <sup>c</sup>. *Livy* tells us, that the *Carthaginians* found two years too long a period for their prætors to have power. They therefore made that office annual. The *Corinthian* *prytanes* were annual magistrates <sup>d</sup>.

Three brothers having enjoyed the consulship seven years successively, a regulation was made, that neither consul nor tribune should be in office above one year <sup>e</sup>. In *England*, a great family commands the elections of members for one or several boroughs, from generation to generation. The *Romans* never chose a dictator, but in extreme danger, and when expeditious measures alone could save the state, and only for 6 months. They appointed several times a dictator to drive an expiatory nail into the wall of *Jupiter's* temple. But he held his office only one day. The wise *Romans* would trust power no longer than was necessary. The authors of the *ANT. UNIV. HIST.* give the following account of the office of dictator among the *Romans*; 'This supreme officer  
' was called dictator, either because he was *dictus*,  
' that is named by the consul, or from his dictating  
' and commanding what should be done. No one  
' could be created dictator till he had been consul.  
' The time assigned for the duration of the office was  
' the space of six months. As to the perpetual dicta-  
' torships

<sup>a</sup> *Ubb. Emm.* II. 251.

<sup>b</sup> *Ibid.* II. 276.

<sup>c</sup> *Ibid.* II. 4.

<sup>d</sup> *Ibid.* II. 102.

<sup>e</sup> *ANT. UNIV. HIST.* XI. 466.

\* torships of *Sylla* and *Julius Caesar*, they were notorious  
 \* usurpations, and violations of the laws of their coun-  
 \* try. The dictator was not allowed to march out of  
 \* *Italy*, lest he should take advantage of the distance  
 \* of the place to attempt something against the com-  
 \* mon liberty. He was always to march on foot,  
 \* except in case of a tedious and sudden expedition,  
 \* and then he formally asked leave of the people to  
 \* ride. In all other things his power was absolute and  
 \* uncontrouled. He might proclaim war, levy forces,  
 \* lead them out, disband them, &c. without consult-  
 \* ing the senate. He could punish as he pleased; and  
 \* from his judgement lay no appeal. To make his  
 \* authority more awful, he had always twenty-four  
 \* fasces with axes carried before him, if we believe *Plu-*  
 \* \* *tarch*, and *Polybius*. *Livy* ascribes the first rise of  
 \* this custom to *Sylla*. The authority of all other  
 \* magistrates ceased, or was subordinate to him. He  
 \* had the naming of the general of the horse, who was  
 \* wholly at his command. When his authority expired,  
 \* he was not obliged to give an account of any thing  
 \* he had done during his administration. [And we  
 \* know accordingly what tyrants the dictators proved.]  
 \* In short, the dictatorship was a kind of absolute  
 \* monarchy, though not durable, and was looked upon  
 \* as the only refuge of the commonwealth in time of  
 \* danger, till *Sylla* and *Caesar* converting it into a tyran-  
 \* ny, rendered the name of dictator odious, insomuch  
 \* that, upon the fall of the latter, a decree passed in  
 \* the senate, forbidding the use of that dignity upon  
 \* any account whatsoever for the future.

The greater the power is, says *Livy*, the shorter  
 ought to be the time of holding it. Nothing is more  
 advantageous for a state, says *Seneca*, than that great  
 power be short. When the *Carthaginian* judges were

found to have made a bad use of their power, which was for life, *Hannibal* obtained a regulation, reducing it to annual.

The *Romans*, in their best times, jealous of those who assumed power, had almost condemned *Marcus* to death for assuming the title of *proprætor* given him by the army, but without authority of the senate, though he had just then gained a glorious victory in *Spain*.

*Cicero*, in his book, *DE LEGIB.* says, the following was an express law among the *Romans*, ‘*Eundem magistratum, &c.* Let no man bear the same office in the republic twice without an interval of 10 years between.’ It is true the people often broke through this wise regulation, and suffered power to be too often, and to continue too long, in the same person, or family, as in the case of *Rutil. Censorius* created censor twice together, and of *Fabius*’s son made consul, after that authority had been often conferred on the father, so that he himself declared against the people’s partiality for his family. ‘The last *Roman decemviri*, though chosen by their country but for a year, prolonged their term by their own act, and retained the power they had usurped, till the people forced it out of their hands, and punished them severely for their usurpation. Their memory stands branded in history with all the infamy it deserves; while the names of *Valerius* and *Horatius*, under whose conduct the people recovered their right of electing annual magistrates, are celebrated by their historians with all the praises that gratitude can yield, or merit claim, monuments more lasting than brass or marble.’

Quinc-

<sup>a</sup> ANT. UNIV. HIST. XII. 295.

<sup>b</sup> PRÆP. FRAGM. POLYB. XVI.

*Quintillus* foresaw the bad consequences of suffering power to continue long in the same hands. Therefore he refused to be continued in the consulship beyond his year. In consequence of too long a continuance of power in the same hands, *Sylla* and *Marius* attached to themselves the army in such a manner as grievously disturbed, and *Cæsar* as ruined *Rome*.

*Augustus*, at the point of death, gave his will to his colleague in the consulship. And some supposed, he intended to restore the republican government. But recovering he went on as before, like presumptuous sinners, who escaping from illness, soon forget their sick-bed repentance.

Observe the consequence of a contrary conduct. The *Romans* in their degenerate times became fearless of the loss of liberty. Though *Sylla* foretold, that *Julius* would be found to have many *Mariuses* within him; though *Cæsar* openly bribed for the office of *pontifex maximus*, or chief priest, or, if you please, pope of *Rome*; though he defended *Catiline* the conspirator and his crew, (with whom he was accused of being an accomplice) till a band of equestrians drew their swords upon him, and had almost killed him; though he was accused of a conspiracy with *Crassus*, *P. Sulla*, and *Autronius*, to murder those senators, who opposed their ambitious views, and to seize the consulship for *Crassus*, and the command of the horse for himself; though he was accused of another plot with *Piso*; though he behaved so ill in his prætorship, that the senators thought it necessary to take his office from him; though he refused to abdicate in obedience to the decree of the fathers, till he saw, that he would be driven from the bench by force; though he treated

H 2

*Bibulus*,

*Bibulus*, his colleague in the consulship, with such rudeness that he forced that meek spirited man to retire, after which he reigned alone as absolutely as any tyrant, imprisoning the best men of *Rome*, as *Cato*, and others, whenever they opposed his tyranny; though *Julius*, I say, thus gave innumerable proofs of that lawless ambition, which afterwards overthrew the liberties of his country, yet the too credulous people advanced this apparently dangerous citizen to the highest honours, and, giving him the province of *Gaul* for five years, and the command of the army, with their own hands put into his the sword with which he stabbed liberty to the heart. Even after the consul *Marcellus* faithfully warned the senate, that it was hazarding all that was valuable, to continue him in his command; and that it was absolutely necessary for the public safety, that the formidable army should be disbanded; there were still *Romans* (degenerate *Romans*!) treacherous enough, and savage enough, to support the man who, they knew, or ought to have known, was laying measures for subduing their country.

The people of *Taprobana*, supposed to be *Ceylon* in *India*, chose for their king a person who had no children, and if he happened to have children afterwards, they deposed him, lest the crown should become hereditary, and power become inveterate in one family<sup>a</sup>. The officer, who had in his custody the seals, and keys of the citadel and treasury, held his place but one day.

The ancient brave and free *Aragonians*, justly fearing the encroachment of kingly power, appointed a magistrate called, in modern times, the *justitia* of

<sup>a</sup> SUTTON. IN JUL. §. 28. 29.

<sup>b</sup> ANT. UNIV. HIST. XX. 103.

of *Arragon*, who was to come between the king and the people, and to whom the subjects might appeal, when injured by the king. This magistrate was to be the ablest lawyer in the country. And a king, who opposed his explanation of the sense of the law, was to be looked upon as a lawless tyrant. But about *Ad. 1400*, the *justitia* himself was found to have abused his power. The *Aragonians* therefore found it necessary to put his decisions under the examination of 47 men chosen out of the four orders of the kingdom. It may, I believe, be safely affirmed, that all the free states of antiquity, in their first times, made a point of giving no longer than annual authority to their magistrates.

At *Genoa*, *A. D. 1298*, an act passed in the great council, which till then was annually chosen by the people. That all those of which it was that year composed, or who had been members of it for the four last years, should, upon their obtaining twelve voices in the council of forty, be themselves, and their posterity for ever after, members of it; and that all the other citizens should be for ever excluded from the administration of public affairs. From this time the people of *Venice*, like all others under the same circumstances, have found how dangerous it is to be useless, and that to have no share in the government is to be a prey to those who have it.

The *Florentines*, offended at the long continuance of power in the *Medici* family, insisted that it was necessary to restore the constitution to its first principles, by restoring the magistrates to their regular functions in the government.

H 3

No

\* *De Leg.* Hist. Drick. 127.

† *Præf. Fragm. Polyt.* xvi.

\* *Med. Univ. Hist.* xxxvi. 307.

No president could be chosen at *Florence* in less than three years from his last service<sup>a</sup>. By this means posts of honour were attainable by most of the citizens, and no man or party could become inveterate in power, and responsibility was still in view.

The *Florentines* ordered, about the beginning of the 16th century, that the office of gonfalonier or chief magistrate should from that time be annual, and that the council should be enlarged by the addition of all who had gone through the great offices of state, either at home or abroad; the number before was but 18<sup>b</sup>. Power should be widely diffused, and continually shifting from hand to hand.

Cardinal *Richelieu*, in his TESTAM. POLIT. condemns the custom in *France*, of appointing the governors of provinces for life<sup>c</sup>.

At *Venice* the doge, not being an absolute sovereign, has not power to take off, or put on his ducal crown when he pleases. The *consiglieri*, or counsellors of *Venice*, are chosen for 8 months. The *capi di quaranta*, or heads of the courts of 40 judges, are chosen by the senate for two months. The *savii del consiglio*, or sages of the council, serve 3 months; the *savii di terra firma*, or sages of the continent, 6 months. Five *savii agli ordini*, or sages of order, are likewise chosen by ballot in the senate for 6 months each<sup>d</sup>.

The khalif *Omar* would not nominate his son for his successor, nor even suffer him to have a vote for the successor. It was enough, he said, for one family to have one in the important office of khalif<sup>e</sup>.

A doge

<sup>a</sup> MOD. UNIV. HIST. xxxvi. 45.

<sup>b</sup> Ibid. 433.

<sup>c</sup> S. Pierre, OUVR. POLIT. xvi. 25.

<sup>d</sup> Cole's MEM. 16.

<sup>e</sup> MOD. UNIV. HIST. i. 516.

A doge of *Lucca* cannot be re-elected in less than 7 years. The senators are elected every two months. The great council of 130 nobles and 10 burghers hold their places 2 years. Their police is very attentive to the suppression of luxury<sup>a</sup>.

‘ There is, says my honoured friend Mr. *Boswel*, in the government of *Corsica*, a gradual progression of power flowing from the people, which they can dispose of, and resume at their pleasure at the end of every year; so that no magistrate, or servant of the public, of whatever degree, will venture, for so short a time, to encroach upon his constituents, knowing, that he must soon give an account of his administration, and if he should augment the authority of his office, he knows, he is only wreathing a yoke for his own neck, as he is immediately to return to the situation of an ordinary subject<sup>b</sup>.’

When the throne of *Poland* becomes vacant, the primate archbishop of *Gnesna*, obtains a greater power than the king had; but this gives no jealousy, because he has no time, before a king be chosen, to make himself formidable<sup>c</sup>. The *Parmesans* used to change their podesta twice a year<sup>d</sup>. The directors of the *Dutch East-India* company are obliged every third year, to give an account to the states general of their whole proceedings<sup>e</sup>.

A noble stand was made by the citizens of *Dublin*<sup>f</sup>, for obtaining a limitation of the period of their parliaments.

H 4

<sup>a</sup> MOD. UNIV. HIST. XLIII. 445.

<sup>b</sup> *Boswel's* ACCOUNT OF *CORSICA*, p. 154.

<sup>c</sup> MOD. UNIV. HIST. XLIII. 526.

<sup>d</sup> Ibid. XXXVII. 124.

<sup>e</sup> Ibid. x. 571.

<sup>f</sup> See WHITEHALL EVEN. POST, May 27, 1766.

liaments. They have accordingly, *anno D. 1708*, obtained a restriction of them to eight years. Some of the candidates they obliged to swear, that they would vote for this abridgment, before they elected them.

#### CHAP. IV.

*Example of the English, in some Instances, shewing an Apprehension of Danger from inveterate Power.*

**E**VEN the *English*, who are described by a humorous author, as a people of great faith and little wit, that is, *fore thought*, have occasionally shewn some little fear of the mischief to be expected from power inveterating in the same hands.

For the general government of the country, the antient Saxons [our ancestors] ordained 12 noblemen chosen from among others for their worthiness and sufficiency. These in the time of peace, rode their several circuits, to see justice, and good customs observed, and they often of course, at appointed times, met all together to consult and give order in publick affairs; but ever in time of war one of these twelve was chosen to be king, and to remain so long only as the war lasted; and that being ended, his name and dignity of king also ceased, and he became as before; and this custom continued among them until the time of their wars with the emperor *Charles the Great*. At which time, *Wittekind*, one of these twelve, a nobleman of *Angria* in *Westphalia*, bore over the rest the name and authority of king; and he being afterward, by means of the said emperor, converted to the

• faith of Christ; and by him his notable title of  
• king turned into the enduring title and honour of  
• duke; and the eleven others were in a like manner by  
• the said emperor advanced to the honourable titles of  
• earls and lords, with establishment for the conti-  
• nual remaining of these titles, and dignities unto  
• them, and their heirs: of whose descents are since  
• issued, the greatest princes in Germany.

The 24 barons, who were to redress grievances in  
the time of Henry III. proved 24 tyrants; the conse-  
quence of trusting power in the hands of many. Ac-  
cordingly the knights of the shires were obliged to  
curb the tyranny of the reforming barons.

Enacted 1 Henry V. that no sheriff be again sheriff  
in less than three years. By 1 Henry V. cap. 4.  
sheriffs bailiffs shall not be in the same office in three  
years after. By 28 Edward III. no sheriff shall  
continue in his office above one year. And by  
1 Rich. II. none that hath been sheriff, shall be so  
again within three years. Enacted, A. D. 1444  
that to prevent oppression and exactions, no man  
shall be sheriff or under-sheriff of a county, above  
one year at most, on pain of forfeiting 200 l.

Our ancestors were cautious of allowing power to  
remain too long even in the hands of searchers, gaugers,  
aulneters [public measurers of manufactures,] custo-  
mers [custom-house officers] &c. A searcher, gau-  
ger, &c. shall have no assured estate in his office.

In the commission for the admiralty and navy, it was  
provided, that no chairman continue in office above a  
fortnight

<sup>1</sup> *Verstegan's ENGL. ANTIQ.* 1621. vol. 1. p. 100.

<sup>2</sup> *PARL. HIST.* II. 131.

<sup>3</sup> *STAT. AT LARGE*, I. 450.

<sup>4</sup> *Ibid.* 266.

<sup>5</sup> *Ibid.* 314.

<sup>6</sup> *Rapin*, I. 569.

<sup>7</sup> *See* 17 Rich. II. cap. 5. *STAT. AT LARGE*, I. 387.

fortnight together, and all commanders to take their turns.<sup>a</sup>

Even the king-killing parliament were sensible of the evil of too long parliaments. 'To prevent the many inconveniencies apparently arising from the long continuance of the same persons in supreme authority, resolved, That this present parliament dissolve upon, or before the last day of April, 1649.' And their self-denying ordinance shews that the general opinion of those times was for a place-bill. And the same of adequate representation<sup>b</sup>.

## CHAP. V.

### *Sense of Mankind on inveterate Power; or Arguments for short Parliaments.*

I Will throw together in this chapter some of the best arguments for short parliaments, that have occurred to me in the course of my reading. I hope the reader will excuse any deficiencies he may find in the arrangement of them.

To take the character of man from history, he is a creature capable of any thing the most infernally cruel and horrid; when actuated by interest, or what is more powerful than interest, passion, and not in immediate fear of punishment from his fellow-creatures; for damnation lies out of sight. Who would trust such a mischievous monkey with superfluous power?

*Simia quam similis turpissima bestia nobis!* OVID.

The love of power is natural; it is insatiable; it is whetted, not cloyed, by possession. All men possessed of

<sup>a</sup> PARL. HIST. XXII. 65.

<sup>b</sup> Ibid. XVII. 526.

of power may be expected to endeavour to prolong it beyond the due time, and to increase it beyond the due bounds; neither of which can be attempted without danger to liberty. Therefore government (by such frail and imperfect creatures as men) is impossible without continual danger to liberty. Yet we find that men in all ages and nations have shewn an astonishing credulity in their faithless fellow-creatures; they have hoped against hope; they have believed against the sight of their own eyes.

Were any foreigner of good understanding to be asked, what he thought would be the consequence of our commons being elected by so small a number of the people, and of their sitting for seven years, he would answer, that without a reformation of these irregularities, the *British* government must unavoidably run into an aristocracy, or tyranny of a few, the most odious of all forms of government. Yet the good people of *England* sleep very sound; and foreigners admire and envy our form of government. The truth is, that neither foreigners nor *English* consider much besides the *theory* of our constitution. They admire what it ought to be, and would be, if we had the true spirit of it, while they have reason to execrate it as it is in our times, and to look forward with horror on what it is like to end in.

We know by infinite examples and experience, says the excellent *Gordon*, that men possessed of power rather than part with it, will do any thing, even the worst and the blackest, to keep it; and scarce ever any man upon earth went out of it as long as he could carry every thing his own way in it.

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† See *Bolingbr. REM. HIST. ENGL.* 9.

"it is only when he would not, he refused; I  
 doubt that there is not one exception in the world to  
 this rule, and that *Blaisius, Charles the Fifth, and*  
*Henry VIII.* laid down their power out of pique and  
 discontent, and from opposition, and disappoint-  
 ment; this seems certain, that the good of the world  
 or of their people, was not one of their motives  
 either for continuing in power, or for quitting it.  
 It is the nature of power to be ever intruding, and  
 converting every extraordinary power, granted at  
 particular times, and upon particular occasions, into  
 an ordinary power to be used at all times, and when  
 there is no occasion; nor does it ever part willingly  
 with any advantage. From this spirit it is, that oc-  
 casional commissions have grown sometimes perpe-  
 tual; that three years have been improved into seven;  
 and one into twenty; and that when the people have  
 done with their magistrates, their magistrates will  
 not have done with the people.

"It is justly observed by Judge *Blackstone*, that the  
 greatest superiority any man can obtain over another,  
 is to make laws, by which he shall be bound. And  
 surely the greater the power, the greater danger of  
 its becoming inveterate in the same hands.

A wise people will not suffer combinations of great  
 families. The monopoly of power is the most dan-  
 gerous of all monopolies. An *Athenian* was banished  
 by the ostracism, if three citizens all of at least 60  
 years of age agreed, that it was necessary. Nor was  
 it inflicted or suffered as a punishment, but was un-  
 derstood as a wise precaution for the good of the  
 whole, against the exorbitant popularity, and dan-  
 gerous power of a few.

No

No body is willing to part with power, and all are for increasing what they have. The prince of Wales (afterwards king William III) shew'd great anxiety about James II's being limited. It was, he said, of bad example, and subjects might think of imitating papalists, if they began with papists.

The following, to the end of this paragraph is chiefly  
abridged from REASONER, ANNUAL PARLIAMENTS.  
“For the amending, strengthening, and preserving of  
“the laws, parliaments ought to be held frequently.”  
Words of the act for declaring the rights of the subject  
at the beginning of the revolution. Frequent parlia-  
ments must mean frequent elections; for frequent meet-  
ings of parliament without new elections would be  
an evil, rather than an advantage. *defined* “ordered,”  
“that parliament should meet twice a year or oftener.”  
There are statutes three times in the reign of Ed-  
ward III. “that parliament should be hold once  
“a year or oftener.” To the same purpose, in the  
time of Rich. II. Proclamations of parliament were then  
unknown. They began under Henry VI. and  
used till Hen. VIII. *defined* “was blamed for”  
many officers in parliament. The king has power to  
choose his officers, and servants; but the servants and  
representatives of the people ought not to be the king’s  
servants, who can forfeit employment, and  
purchased by places and monopolies, more than  
reimbursed their own share of the public taxes, than  
become interested to lead the people in order to fill  
their own pockets. Accordingly it must be considered  
what a load might now be taken off from the people  
by prohibiting useless places and corrupt pensions.  
A man

A man may at one time be fit for being a representative, who is not so at another. He may go into the house in independent circumstances. In three years, extravagance learned at *London* may beggar him. Were parliaments annual, the chance of this would be as 1 to 7. By a few mens monopolizing legislative power, 6 times the number 558, or 3,348 are in every parliament excluded from practically learning parliamentary knowledge, and understanding the interests of their country, besides their being excluded from what they have an equal natural right to, with the 558, who were chosen, i. e. who bought their seats.

Short parliaments would give the people an opportunity of knowing more of the state of things both at home and abroad, than long ones. 558 gentlemen do not know so much as seven times that number, or three times that number. Long parliaments are particularly favourable to corruption. A virtuous man could not be debauched in a year's sitting in *St. Stephen's* chapel. *Nemo repente fuit turpissimus.*

Vice is a monster of such frightful mien, &c.

*Pope.*

Length of parliaments destroys all responsibility, makes our delegates our masters, and erects them into an august assembly, whom we must not approach but in the humble guise of petition. Short parliaments would be clear of suspicion, and nothing would more promote confidence between king and people than freedom from suspicion of court influence. If our kings are indifferent about the people's confidence, we are in the case of the people of *France*, whom the king can plunder at will. Can the people be free from suspicion, when they see some hundreds of placemen in the house? They must be a nation of idiots, if they were.

With

With what honest views can the court desire long parliaments? Parliamentary slavery is sower, but surer than *qua noarrantes*, and the other oppressive acts of tyranny, which alarm the people and defeat themselves. So *Chas. II.* had almost ruined all by his long pensioned parliament, whose very length qualified it for pensioning. All wise nations, and all good princes have approved of frequent meetings with their parliaments, and diets. Our *Edwards* and *Henries* often put a stop to the course of their victories to meet parliament. The *Spaniards* were peculiarly cautious about the frequency of their state meetings. Their *Sancho's*, *Henries*, *Ferdinands*, and *Charles's* were very careful of this. Under *Charles*, who was particularly exact in this respect, the *Spanish* monarchy was most flourishing. His son *Philip* pursued a contrary plan of encroachment on the people, and first eclipsed the glory of the monarchy. In *France*, under *Clod's*, *Pepin*, *Charlemagne*, *Capet*, and his successors for ages, the meetings of the states were cherished. *Louis XI.* and most of his successors have promoted the contrary scheme of government, without the people. The consequences have been continual insurrections, tumults, and leagues. The subjects have often returned with interest on the heads of their ambitious princes, the damages they have suffered at their hands, which has reduced the kingdom to extreme distress. The struggles of the parliament of *Paris*, and people of *France*, during the minority of this present king, to recover their lost liberties, shew the precarious state of despotic monarchs. When *Germany* was exposed to unspeakable miseries from the *Hungarians*, *Slavonians*, *Vandals*, and *Danes*, the remedy was establishing frequent and annual diets by the golden bull, under *Charles IV.* wherein the imperial cities and Hanse towns

towns took care to send new deputies to every new diet, lest they should be bribed by the imperial ministers. *Holland*, and *Switzerland*, though improveable in many points, are very careful on this head, and by the frequency of the assemblies of their states, have been secure.

*Harrington* labours to shew, that all well-conducted states have avoided the error of suffering power to continue too long in the same hands. And he quotes *Machiavel*, who ascribes the ruin of the *Roman* commonwealth, to the want of an agrarian law, and the damage, which accrued from the prolongation of power in the same hands.

*Dr. South* gave out his text, "The word of the Devil, which I would recommend to your serious attention at this time, is written in the 11th chapter of *Job*, and the 4th verse, "All that a man hath will he give for his life," &c. The jacobites moved, *A. D.* 1693, for a place-bill, and short parliaments. And there were men, who, in the apostle *Paul's* time, preached *Christ* from contention. But truth is truth, if the Devil had spoke it, and christianity is a good religion, though some have preached it from contention. So a place-bill, and short parliaments are salutary measures, though the jacobites proposed them from party-views. The former was passed by the commons, but rejected by the lords; the latter passed both houses, but was denied the royal assent. The lords threw out the bill for incapacitating placemen from sitting in the house, because it would seem too great a restraint on the people's liberty of choice. But this is a frivolous objection. For as the law stands now, the people are restrained from choosing persons

persons unqualified as to fortune, and those who hold certain places; and all the evil is, that the people are not more restrained in their choice of improper persons.

Acts of parliament derogatory from the power of subsequent parliaments, bind not, says *Blackstone*. Therefore short parliaments are desirable. It is impossible, in many cases, to foresee what the effect and operation of an act of parliament will prove. And if a bad law must continue in force seven years (the same parliament will not perhaps like to repeal its own law) the subjects may be heavy sufferers.

The length of parliaments dejects the spirits of the few patriots who are still left. At the sitting down of a new parliament they lose all hope of redress, for many years. And the depression of their courage is the triumph of the court; and gives them opportunity for setting the chain.

If our parliaments were annual, it might be as well, that our ministries, and the rest of the executive, were more permanent. For an honest parliament (and an annual parliament, with exclusion by rotation, could have no interest to be other than honest) would oblige the executive to act according to justice, and the public interest, which would secure the public safety. The reducing our parliaments to independency on the court, would confound the enemies of this country. For it would shew the world, that the court had no indirect design. And no nation can hope to injure *Britain*, if her government is true to her.

*Walpole, A. D. 1735*, when the House was moved about shortening parliaments, said, 'It would be dangerous; for that it would make the government democratical by giving factional men too much game to

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play.

play. This was truly *Walpolian*, that is jesuitical, reasoning. In whose hands ought the power to be? In those of a corrupt *court*? will it be safer there than in the hands of the original proprietors, I mean the *people*? Is the court likely to consult the people's interest with more diligence and fidelity than the people themselves? The court may be rich, though the nation be ruined. But if the nation be ruined, what is to become of the people?

The unembarrassed modesty of a thorough-paced courtier sticks at nothing. *Pelham* formally sets himself to prove (in opposition to the sense of all that ever thought, spoke, or wrote upon government) that it is an advantage of our constitution, that a person may be in a station of power his whole life, because the attachment of the people to their king and royal family, will *always* prevent any bad effects from his ambition, and the controul of a master, or sovereign, [however ill-disposed, or however misled, the sovereign may be] as well as of two houses of parliament, [however corrupt the parliament may be] will *always* prevent his being guilty of very enormous practices, or will, at all times, even when he is in the zenith of his power, be able to discover and punish them, if he should. But wise founders of states have generally thought prevention preferable to punishment; and have, therefore, made regulations for preventing the continuance of power too long in the same hands. And in spite of their utmost precaution, wicked ministers have often escaped.

It is observed, that the members are particularly careful of their conduct toward the end of a parliament, with a view to their being re-elected. Does

not

not this shew the advantage of short parliaments, and the frequent return of power into the hands of the people. If it be said, upon the plan of exclusion by rotation, and an effectual place-bill, gentlemen would not want to be re-elected, and therefore the shortening of parliaments would not make them at all the more careful of their conduct; this is confessing all that is wanted, viz. That, if parliaments were upon a right foot, there would be no bias upon the minds of the members, to draw them away from their country's interest; which they would naturally pursue, because their own is involved in it.

The place-bill has been repeatedly passed by the commons in consideration of an approaching general election, which shews plainly the advantage of short parliaments.

An motion was made, A. D. 1713, to address the queen that she would desire the duke of Lorrain to remove the pretender out of his dominions. Sir *William Whitlocke* observed, that there was such an address presented to *Granville* about the removing of *Charles Stuart* out of France, who was afterwards restored to the throne. Being near the end of a parliament, and the members fearing for their election, it was resolved *non est*. This shews the advantage of short parliaments. For the *public* interest was at that time thought to be *strange* in the house.

In the *Devonshire* instructions, A. D. 1741, which were admired for their simplicity and sense, is the following, 'Restore triennial parliaments, the best security for British liberty.'

In

See REV. PLACE-BILL.

<sup>b</sup> Deb. Com. v. 47.

<sup>c</sup> Deb. Com. XIII. 116.

‘In governments, where the legislature is one lasting assembly, there is danger, that the members of such assembly think they have an interest distinct from that of the community.’ In *England*, while parliaments are septennial, it may happen, that many hundreds of individuals may be legislators the greatest part of their lives. Accordingly it was found, in the year 1766, that 64 members had served in 4 parliaments, 31 in 5, 16 in 6, 3 in 7, 2 in 8, 1 in 9, and 1 in 10.<sup>a</sup>

Many writers lay great stress upon I know not what imaginary danger from *unbalancing* the power of the three estates. For my part, I own I am so dull, that I can see but one danger respecting the interior of the kingdom, viz. The danger of the *people's* being enslaved by the servants of the *crown*. Suppose the power of king and lords diminished to what degree the reader pleases; if the people of property in general were free and happy, could the king and lords be unhappy? Would the king and the lords have just reason to complain, if they were happy? Does any friend to his fellow-creatures wish the king and lords to possess power for any other purpose, than the *general* happiness? Can we not imagine a state, in which the people might be very happy, in which king and lords possessed much less power than they do in this country? Can we not imagine a very happy state, in which there was neither king nor lords? What is the necessity of a *check* on the power of the commons by king and lords? Is there any fear, that the commons be *too free* to consult the general good? Must the

<sup>a</sup> Locke on GOVERN. II. 214,

<sup>b</sup> LOND. MAG. 1766. p. 489.

the representatives of the people be checked and clogged in promoting the interest of their constituents? If there be not some necessity for this (which to me seems as rational as to say, there ought to be a check to prevent individuals from being too healthy, or too virtuous) I cannot see the solidity of that reasoning, which lays so much stress on the necessity of a balance, or equality of power among the three estates, or indeed (speculatively, or theoretically speaking) of a necessity of any more *estates* than one, viz. An adequate representation of the people, unchecked and uninfluenced by any thing, but the common interest; and that they appoint responsible men for the execution of the laws made by them with the general approbation. Yet some writers of no small note affect to regret the supposed weakness of the crown and house of lords, when set against the commons, because the latter commands the purse. 'The king's legislative power,' says my esteemed friend Mr. *Hume*, 'is no check to that of the commons.' And why, I pray you, should it be a check? Again, 'Though the king has a negative in the passing of laws, yet this, in fact, is esteemed of so little moment, that whatever is voted by the two houses is sure to be passed into a law, and the royal assent is little better than a mere form.' What would this gentleman have? Ought a king, a single individual, or a handful of lords, to have the power of *stopping* the business of the whole *British* empire according to their caprice, or their interested views, whose interest may often be imagined (by themselves at least) to lie very wide of the general weal? I can see very clearly the use of a check upon the power of

## I 3

\* Queen *Elizabeth* rejected 40 bills, and king *William* III. one, if not more.

a king or lords; but I own I have no conception of the advantage of a check upon the power of the people, or their incorrupt and unvalled representatives. The same eminent writer seems to think a certain competent degree of court-influence, by offices, necessary. For my part, I look upon every degree, great or small, of ministerial power in parliament as a deadly poison in the vitals of the constitution, which must bring on its destruction.

The opposers of annual parliaments say, Every thing will be fluctuating under them, and no nation will treat with you; no war can be prosecuted with success, &c. Have they then forgot, that the treaties of *Bretigny* and *Troyes* were concluded, and the victories of *Crecy* and *Agincourt* gained, under the auspices of annual parliaments? On the contrary, it is thought by many (says the author of *PREF. TO FRAGM. POLYB.*) that the septennial act, *A. D.* 1716, was the severest stab, the liberties of the people of *England* ever received.

A standing parliament, or the same parliament long continued, changes the very nature of our constitution in the fundamental article, on which the preservation of our whole liberty depends. The security of our liberty does not consist only in frequent sessions of parliament, but in frequent new parliaments.

The antient custom (says *Davenant*) in the mixed governments formed in these northern countries (which will be the best model for them to follow) was. That national assemblies should be frequently called, and sent home as soon as the nation's business was dispatched. The wisdom of old times

<sup>a</sup> P. xii.

<sup>b</sup> DISSERT. ON PARTIES, P. 37.

<sup>c</sup> Ibid. 128.

<sup>d</sup> DAVEN. II. 60.

‘ did never think it convenient that one and the same  
‘ assembly should sit *many years* brooding of faction.  
‘ For it is in these continued sessions, where the skill  
‘ is learnt of *guiding*, and *being guided*, where the  
‘ youth is depraved, and old sinners hardened, where  
‘ those parties are formed that give the cunning speak-  
‘ ers so much weight and value, and where they can  
‘ bring their subtlety and eloquence to market, And  
‘ in former reigns, the departing from a principle so  
‘ essential in its constitution, had like to have changed  
‘ the whole face of the *English* government; for  
‘ leeches and other blood-sucking worms are ingen-  
‘ dered in standing pools; flowing waters do not cor-  
‘ rupt or breed so many insects. The keeping a national  
‘ assembly long sitting debauches the gentry of a king-  
‘ dom, and opens a way to offices of trust, not known  
‘ among their ancestors; but when such assemblies are  
‘ called together to consult upon the difficulties of  
‘ state, and are dissolved as soon as the public busi-  
‘ ness is dispatched, the measures of the false politi-  
‘ cians become presently quite altered. They who  
‘ design to rise, must mount by other steps than for-  
‘ merly. Intriguing, heading parties, running into  
‘ factions, and sudden changing of sides will avail the  
‘ busy men but little. A *year or two* is not sufficient  
‘ to mould and fashion an assembly to their designs;  
‘ every new sessions young gentlemen are sent up whom  
‘ it is not so easy to corrupt; they can fix nothing  
‘ where there is a perpetual flux and reflux of matter;  
‘ it is like building on a quick sand. When such as  
‘ intend to advance themselves in the world see all this,  
‘ and that these assemblies are no more the field in  
‘ which they can exercise their wicked arts with any  
‘ advantage, they naturally fall into other methods,

' and are *honest* of course, when it is no longer their  
 ' *interest* to be otherwise. In such a constitution there  
 ' is no need to silence troublesome and perplexing  
 ' rhetoric with some good office, nor to buy off and  
 ' reconcile at any rate, men of turbulent and ambi-  
 ' tious spirits; and when it is not needful to hire  
 ' people to save their own country, how much *cheaper*  
 ' and more easy is government rendered to princes,  
 ' who then have a free choice among their subjects  
 ' to call whom they please into the service of the state?  
 ' whereas otherwise their favours are confined to one  
 ' narrow sphere; and as thereby their goodness is made  
 ' more extensive, so the stations requiring abilities and  
 ' experience must be *better* filled, when a court has  
 ' not the *necessity* upon it to find out places for men  
 ' rather than men that are fit for the places. In coun-  
 ' tries where this post, so essential to liberty, is thus  
 ' preserved from corruption, all matters relating either  
 ' to war or peace, public revenues, or trade, will go on  
 ' prosperously; and a national assembly so constituted  
 ' will always produce wholesome laws, right admini-  
 ' stration, and a perpetual race of honest and able mi-  
 ' nisters.'

Charles II. governed, by his *long* or pensioned-  
 parliament in much the same arbitrary manner as *Wil-*  
*liam* the Bastard did *without* a parliament. For, ' as  
 ' the people had in both cases lost the exercise of their  
 ' annual power of election, with that they had lost  
 ' the remedy for all their grievances. And under this  
 ' mode of things may be observed all the marks of  
 ' tyranny that can be found under the despotic go-  
 ' vernment of one man. The laws were no longer  
 ' any protection to the innocent. Judgment and jus-  
 ' tice were directed by court-policy; severity and  
 ' cruelty

' cruelty took the place of mercy and moderation;  
 ' flitting of noses, cutting of ears, whipping, pillory-  
 ' ing, branding, fining, imprisoning, hanging, and  
 ' beheading, were the constant lot of those who had  
 ' virtue enough to speak, write or act in defence of  
 ' constitutional liberty. And so far was the house of  
 ' commons from relieving the people under this dread-  
 ' ful distress, that they contributed all in their power  
 ' to prevent even their cries and prayers from either  
 ' approaching the throne or themselves. They passed  
 ' a law, by which no man durst ask his neighbour to  
 ' join him in a petition for relief to the king or either  
 ' house of parliament. It was a melancholy conside-  
 ' ration to see the people refused the benefit of prayers  
 ' and tears for relief against their own infamous de-  
 ' puties.'

' Nothing could make it safe (says the author of  
 ' DISSERT. ON PARTIES. b) nor therefore reasonable,  
 ' to repose in any set of men whatsoever so great a  
 ' trust as the collective body delegates on the repre-  
 ' sentative in this kingdom, except the *shortness* of  
 ' the term for which this trust is delegated. There-  
 ' fore every *prolongation* of this term is in its degree  
 ' unsafe for the *people*; it weakens their security, and  
 ' endangers liberty by the very powers given for its  
 ' preservation. Such prolongations expose the nation,  
 ' in the possible case of having a corrupt parliament,  
 ' to *lose* the great *advantage* which our constitution  
 ' hath provided of curing the evil before it grows con-  
 ' firmed and *desperate*, by the gentle method of chusing  
 ' a new representative, and reduces the *people* by con-  
 ' sequence to have no other alternative than that of  
 ' submitting

‘submitting or resisting, though submitting will be as  
 ‘grievous, and resistance much more difficult, when  
 ‘the *legislature* betrays its trust, than when the *king*  
 ‘alone abuses his power.—These reflections, are  
 ‘sufficient to prove these propositions; and these  
 ‘propositions set before us in a very strong light, the  
 ‘necessity of using our utmost efforts that the true  
 ‘design of our constitution may be pursued as closely  
 ‘as possible by the re-establishment of *annual*, or at  
 ‘least triennial parliaments.’

The author of a piece intituled *A Discourse between  
 a Yeoman of Kent, and a Knight of a Shire upon the  
 Prorogation of the Parliament to May 2, 1693*,  
 writes as follows.

The king had rejected the bill ‘for securing the  
 ‘foundations of the civil government, by such a con-  
 ‘stant succession of new-chosen parliaments, that their  
 ‘deputies, by their long continuance in that trust,  
 ‘may not be in danger to be corrupted by offices or  
 ‘private interest.’ The speakers in the dialogue  
 remark, That the mischiefs of *Charles II*’s and  
*James II*’s reign were occasioned, in great measure,  
 by their refusing to call successive parliaments, and by  
 continuing the same parliament for many years, to form  
 them to a compliance with their designs of despotic  
 power. They observe, ‘That from king *William*’s so-  
 ‘lemn and repeated assurances that he would put a stop  
 ‘to the arbitrary power exercised over the people, and  
 ‘parliament, and from his request to parliament, that  
 ‘they would make such an effectual provision for their  
 ‘fundamental laws and liberties, that they might never  
 ‘hereafter be in danger to be again invaded; there was  
 ‘reason

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• STATE TRACTS, time of king *William*, II. 330.

reason to expect, that the *antient*, legal course of annually-chosen parliaments would have been immediately restored, and the strongest fence made for that constitution, that the wisdom of the kingdom could have invented. But the promoters of the revolution lost the opportunity.

Politicians have laid down for a maxim, That if kings were *republican* in their measures of administration, subjects would be *royalists* in their obedience. Our kings have it in their own absolute power to do the nation a prodigious service. The king can dissolve every parliament at the end of the first session; which would make parliaments annual. But this would be applying *prerogative* to the advantage of the people; whereas kings generally think it is intended for *their* advantage, and to keep the people down. Yet even the army (not generally friendly to liberty) proposed, *A. D.* 1647, biennial parliaments; that the counties should elect members according to the respective rates they bore in the common charges and burdens of the kingdom, and that the election of burgesses for poor declined or inconsiderable towns be taken off. And general *Fairfax*, in his proposals for peace in *Charles III*'s time, makes the reduction of the period of parliament to 2 years, an essential article.

If it should ever happen, says the author of *PREF. TO FRAGM. POLYB.* that the representatives, encouraged by long independence on the people, should instead of reforming grievances, increase their number, and become themselves the greatest grievance; the

<sup>a</sup> *Rapin*, II. 537.

<sup>b</sup> *Ibid.* 538.

<sup>c</sup> *PARL. HIST.* XVI. 205.

<sup>d</sup> *P.* xiv.

' the people will, in that case, have no legal remedy,  
 ' which is in itself contrary to the nature of govern-  
 ' ment; it being ridiculous to imagine that the same  
 ' law, which provides a remedy for every private  
 ' wrong, should provide none for these of the public,  
 ' or that the whole body of the people, for whose  
 ' sake the law itself was instituted, should ever find  
 ' themselves in such circumstances, as to lose the  
 ' benefit of it. Yet this must happen if it be received  
 ' as a standing maxim of law and justice, that their  
 ' representatives when once chosen for any number of  
 ' years, have, notwithstanding the grossest misbehavi-  
 ' our, still a right to sit out their term, and what is  
 ' worse, to extend it as far as the affairs of the nation,  
 ' or *their own*, may seem to require. If this be admit-  
 ' ted, then no term can by law be prescribed to their  
 ' sitting; because they have still a power by law of  
 ' extending that term, and consequently of perpetuat-  
 ' ing themselves. This, however improbable, must,  
 ' upon a supposition of the legality of the first exten-  
 ' sion of the original term, be allowed to be equally  
 ' legal. From hence it appears how dangerous it is  
 ' to remove the corner stones of government; and that  
 ' whenever they have been removed through necessity,  
 ' the first opportunity ought to be laid hold of to re-  
 ' store them to their former situation.'

Lord Digby, in his speech, *A. D.* 1640, says,  
 ' The safety of the state consists in frequent parlia-  
 ' ments. They are the *unum necessarium*. The long  
 ' intermission of parliaments has always produced bad  
 ' effects.' He observes, that the oppressions of ship-  
 ' money, and the rest in *Charles Ist's* time, were worse  
 ' than all the grievances from *Magna Charta* down,  
 ' and that the intermission of parliaments was the pri-  
 ' mary

mary cause of the ministry's daring to oppress the subject. [He had no idea of a bribed parliament's seconding the views of a villainous court.] A parliament, he says, is the only security against a bad ministry. [But what security against a bad parliament?] For a ministry will always aim at an enlargement of power, and a parliament only can curb them. 'No state can wisely be confident of a minister's being good longer than the rod is held over him.' He mentions *Noy* as once a great patriot and promoter of the petition of right; afterwards, when made attorney general, the very inventor of ship-money. He calls *Wentworth* also a shameful apostate. He is for triennial parliaments. There were no places nor money to bribe with *then*. But even triennial parliaments *now* would be too long.

'Had we had frequent parliaments, says Sir *W. Drake*, *A. D.* 1641, we should have given a timely stop to mischiefs, and never have suffered them to break in upon us with such an inundation of distempers, that without prevention, may yet swallow us up.'

The act, *A. D.* 1641, for securing parliament against dissolution by the king, without its own consent, was dangerous, as it left parliament at liberty to sit as long as they pleased. But it was thought safe, because there was *then* no considerable number of places, pensions, or contracts, and the people had therefore an unreserved confidence in parliament. It set, however, a very bad example for *corrupt* times. The people thought it a glorious victory over the tyrant, the *only* object of their fear; little apprehending, that ever a time would come, when they should have

\* *PARL. HIST.* ix. 197.

\* *Ibid.* x. 37.

have reason to dread an excessive power in *parliaments*. Yet they ought to have known, that it is never safe that power be so far out of the *people's* reach, that they cannot resume it, whenever they see it abused, either by kings, or parliaments. And they ought to have remembered, that (such is the disposition of the human mind) to give independent power to any set of men whatever, is giving them the watch-word to erect themselves into tyrants. The proceedings of that very parliament exhibited a striking proof of the justness of this remark, and the independency on their constituents, still arrogated by many of our members of parliament, confirms it. Were our parliaments *annual*, we should see our members as ready to acknowledge their responsibility to their constituents, as now our overseers of the poor are to submit their accounts to the examination of the parish.

‘ The triennial bill under king *William III.* was received, says *Burnet*\*, with great joy; many fancying, that all their other laws and liberties were now the more secure, since this was passed into a law. Time must tell what effects it will produce; whether it will put an end to the great corruption, with which elections were formerly managed, and to all those other practices, which accompany them. Men, who intended to sell their own votes within doors, spared no cost, to buy the votes of others in elections. But now it was hoped, we should see a golden age, wherein the characters men were in, and the reputation they had, would be the prevailing considerations in elections. And by this means it was hoped, that our constitution, in particular

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\* HIST. OWN TIMES, III. 183.

‘that part of it, which related to the house of commons, would again recover its strength and reputation, which were now very much sunk. For corruption was so generally spread, that it was believed, every thing was carried by that method.’

To these observations of the good bishop, I will add, That it is at no time easy to say what effect a *partial* reformation of abuses will produce. And the mere reducing of parliaments to triennial is surely a very partial correction. It is only stopping one leak in ten. For supposing parliaments were triennial, so long as a few thousands (instead of many hundred thousands) have the power of sending in a majority of the house, it will be in the power of the treasury to influence elections. And, so long as there is no penalty for sitting in the house of commons, and, at the same time, enjoying a place, or pension, so long there will be danger lest the votes of the members be influenced by a corrupt court. And so long as the same individuals may be returned again and again, without necessity of exclusion by rotation, so long it will be worth the ministry’s while to influence them, and worth their while to bribe their electors. But, if parliaments were annual, with exclusion by rotation; if the power of electing were equally distributed, as it ought to be, among men of property, so that no one member could be elected by fewer than a majority of 800 votes; and if no member could hold a place, or pension, while he sat in the house of commons, under a severe penalty—if all these restorations of the constitution were brought about, I will engage, that court-influence in parliament shall be *impossible*; and then we shall see the golden days mentioned by the bishop.

[Con.]

Concerning triennial parliaments it was argued, *A. D.* 1693, That long parliaments might prove dangerous either to king or people; to the former by their obtaining great influence among the people, and retrenching too much the power of the crown. But this I think frivolous, because history has no example of a crown, whose power was too much retrenched. And besides it is most likely that a *short* parliament will retrench prerogative. That long parliaments may be likely to prove dangerous to the people, is extremely natural. For power becoming inveterate in the hands of any set of men is always dangerous. When a court knows, that the same set of men are likely to be in parliament for seven, fourteen, or twentyone years, it becomes worth while to practise upon them; and a wicked court may influence a corrupt parliament to 'give up, says *Burnet*<sup>a</sup>, all the money and all the 'liberties of *England*, when they are to have a large 'share of the money, and are to be made instruments 'of tyranny.' 'Frequent parliaments would likewise, says the same author, put an end to the great 'expence, candidates put themselves to in elections, 'and would oblige the members to behave themselves 'so well, both with relation to the public, and in 'their private deportment, as to recommend them to 'their electors at the three years end; whereas, when 'a parliament is to sit many years, the members 'covered with privileges, are apt to take great liberties, to forget, that they represent others, and to 'take care only of themselves.' *Burnet* mentions some objections then made to frequent elections, as, 'That 'they would make the freeholders proud, and insolent, when they knew, that application must be

<sup>a</sup> HIST. OWN TIMES, III. 147.

made to them at the end of three years. This would establish a faction in every body of men, who had a right to election; and whereas now an election puts men to a great charge all at once, then the charge must be perpetual all the three years, in laying in for a new election, when it was known, how soon it would come round. But surely we cannot do much, if we cannot get over such frivolous objections as these. As to the pride and insolence, which the power of frequent elections would produce in the freeholders, it is nothing to the purpose. We are not to deprive the freeholders of what is otherwise their just right, because their possessing of it may make them proud. On that principle, they must not have their estates, at least none must have considerable estates. And, above all, we must have no bishops, peers, or kings. And as to faction's being likely to be increased by shortening parliaments, it is more likely to confound faction. The very support of faction is power continued long in the same hands. And as to the increase of expence to members in consequence of short parliaments, it is an objection set upon its head. For, if parliaments were annual, with exclusion of two thirds for three years by rotation, there would be at once an end put to packing, bribing, canvassing, electioneering, placing, and pensioning of parliament-men; because the parliament, never consisting wholly of the same men for two years together, it would not be worth while for the court to get their iniquitous schemes carried in parliament, only to remain for one year, and be overthrown the next; and whenever a seat in the house came to be no longer a matter of emolument, the contest would be (as now with respect to parish-officers in *England*,

and seats in the assemblies in *America*) how to avoid being elected.

The people's right of annually electing deputies to represent them in parliament was, at the time of the triennial act, as much a part of their birthright, as the freedom of their persons. They had enjoyed it longer than *Magna Charta*, without violation, till the times of *Charles I.* It was therefore no more in the power of any single king and parliament to deprive the people of this right, than of *Magna Charta*. And the people have now a right, at any time, to resume their original power, and to elect only for one year, declaring, that they will not yield obedience to one act made in a *second* year of the same parliament.

The only plausible pretence for septennial parliaments, viz. the danger of a jacobite parliament's being chosen, never was solid; because, on that principle, parliaments should have been still *longer* than septennial, that is, there should have been no new parliament called, while there was a considerable body of jacobites in the nation. But if the pretence for septennial parliaments had been ever so plausible, at the time of that fatal innovation, in the name of common sense, what has that to do with *our* times?

It was proposed to address for frequent new parliaments, *A. D.* 1675, in the house of peers. It was urged that parliaments both before and long after the conquest, were held 3 times a year, viz. at *Easter*, *Whitsuntide*, and *Christmas*, 8 days, each time<sup>a</sup>. This continued with some variations till *Edward III.* Then parliaments were appointed to be annual, or oftener, if need be, and 'prorogations were not then, nor till late times,

<sup>a</sup> DEB. LORDS, I. 175.

‘times, known’<sup>a</sup>. It was unreasonable, that the same man should *engross* legislative power, and *exclude* so many others equally entitled. *Change* of hands was useful to keep those entrusted to their *duty*. A member may be chosen when in *good* circumstances. He may *ruin* himself with gaming, &c. Then he becomes obnoxious to bribery. Then he taxes the people, to enable the court to bribe him, and the rest of the venal crew. At any rate a place-man is not as free as he who has nothing from the court. *Honores mutant mores*. ‘The commons are now become judges of their own privileges, condemning and imprisoning their fellow subjects’ [their constituents, their *masters*] ‘at pleasure, and without oath; they are judges of all elections, by which means very often *they*, and not the *people*, chuse their fellow members. This is owing to the length of parliaments. Long parliaments give time for settling cabals and schemes of corruption. The nation was therefore much obliged to the long pensioned parliament for not enslaving it. How easily this may be done in future ages, under such princes and long parliaments, may easily be conjectured’<sup>b</sup>. Lately there have been given 1500 *l.* 2000 *l.* and 7000 *l.* to be elected. ‘There is a scurvy proverb, That men, who buy dear, cannot live by selling cheap.’ The address was however carried in the negative. Several lords protested, and the king came to prorogue the house before all the lords who intended to join in the protest; were come to the house’<sup>c</sup>.

‘It cannot be unknown to king *William*,’ (says the judicious author of REASONS FOR ANNUAL PAR-

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LIAMENTS)

<sup>a</sup> DEB. LORDS, I. 176. <sup>b</sup> Ibid. 180. <sup>c</sup> Ibid. 175.

LIAMENTS \*) 'how much he has been libelled, 'because so many of his officers were in the house,' — 'I am desirous that it should be made apparent, for 'the future, in every parliament, that there is no like- 'lihood of its being debauched, and that will be 'made apparent by establishing annual parliaments'. He then goes on to shew, that, as members are delegated by electors, to supply their places, and do their business for them, they ought not to be continued longer than a year; because circumstances may so change in a year, that a member who was fit for the business in agitation, when he was chosen, may be found very ill qualified for judging of what comes before parliament, the following sessions; yet the electors have no opportunity of changing him for a more proper deputy. Again he shews, that the continuing the same members for several years is overthrowing the people's privilege of delegation, and giving their delegates a power of becoming their masters, and the creatures of the court, from which, and not the people, they receive their commissions upon every new prorogation. If short parliaments be the most effectual means for preventing bribery, short parliaments are eminently desirable; for bribery is more dangerous than *quo warrantos*. He then goes on to shew, that frequent new parliaments were the custom under our *Henries* and *Edwards*. That the best kings of *Spain*, and of *France*, and the best *German* emperors were most desirous of frequent meetings with their people in their general cortes, parliaments, and diets.

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\* STATE TRACTS, time of K. William, III. 290.

† Ibid.

• Ibid. 291.

When the septennial bill was proposed, *A. D.* 1716, it was pretended, that the people were very generally disaffected, though the rebellion was quelled; and that the hopes of the jacobites were founded on a new parliament. It was proposed first, to suspend the triennial act for once, which would have continued the parliament three years longer. It was questioned whether the septennial bill should be set on foot in the house of lords or commons. It was thought best it should be started in the lords house, where the triennial originated; that the odium might not fall upon the commons so as to hinder their elections. Triennial elections (they said) keep up party divisions, raise animosities in families, occasion ruinous expences, &c. The only pretence for lengthening parliaments, was the jacobitism of the people, which was owing to the mad cry of *The church in danger*, set up by the bigotted priesthood.

*Tantum religio potuit suadere malorum.*

Could they not see that the contest about elections was owing to the posts and places? Why did they not abolish them, as in *Holland*? The whigs made a point of carrying the bill, and every opposer of it was to be set down for a tory. The triennial act, when passed, was looked upon by the people as their great security. Why therefore did the people's deputies dare to mention the repeal of it? It had made King *William* supremely popular. The septennial bill was taking the election from the people, and electing themselves for four years. Parliaments ought not to be altered from what was the known intention of the electors, without new authority obtained from the electors. But that they did not ask; well knowing they should not obtain it. The expence of frequent elec-

elections was no argument, because these expences are voluntary. Frequent elections, it was said, produced corruption, [the contrary is the truth, their consciences told them] and corruption produced the parliament which approved the peace of *Utrecht*. [If corruption does mischief, the business is to remove the materials of corruption. The cause abolished, the effects will cease of course.] Lord *Trevar* said, the shortest parliaments were the best, and that annual was the constitutional period. That parliaments were longest in the worst times, and when the revolution came in, which brought liberty, with it came short parliaments. It was very necessary, he said, to make regulations for preventing parliaments making encroachments on the constitution, as well as for restraining ministerial encroachments. If the people were disaffected and discontented, whether would the lengthening of parliaments *conciliate*, or *widen* the breach? There is no representative of the people but a house, of their *own* making. Every election, supposing representation adequate, and places out of the way, throws the government again into the hands of the people, where it must always be safe. It is absurd to alledge, that foreign states could not trust us, if our parliaments were shortened. What more *permanent* than the *French* court? But who *trusts* the *French* court? Let *property* govern, and all will be safe, and universal *confidence* will follow. A long parliament made *Charles II.* indifferent about the affections of his people. The lengthening of parliaments tended to produce faction in foreign states, when they saw how easily the *British* constitution might be broke into. It was therefore observed in the house of peers, that to publish the prevalency of a popish faction in *Britain*, and to tell foreigners, that the people were  
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not to be trusted with themselves, was confounding all confidence of foreign states in this nation. Articles in the lords protest against committing, were, ' That frequent new parliaments are required by the constitution of this kingdom, and the practice of many ages evidences this to be the constitution. That long parliaments naturally increase corruption. The longer the time, the more worth a corrupt minister's while to bribe, and the more worth a candidate's to get into the house.' Thirty lords protested against committing the bill, and afterwards 24 against passing it. Petitions were presented to the commons against it from *Hastings, Marlborough, Cambridge, and Abingdon*.

In the same debate in the house of peers, the duke of *Devonshire*, in favour of the bill, laboured to set forth the inconveniences attending triennial parliaments, that they ' served to produce feuds, animosities, party-divisions, expensive elections,' with the other trite stuff commonly urged on that side of the question. On the contrary, lord *Abingdon* said, the people looked upon the triennial act, as the great security of their rights and liberties; that if the bill passed the commons, it would be looked upon by those they represented, as a breach of trust. The duke of *Kingston* denied the last part of this assertion, and urged that the business of the legislature was to rectify old laws, as well as to make new ones. Lord *Paulet* said, he did not think it for the king's service, and interest; but before they went any farther, they ought to know the sentiments of the people. His lordship urged that the bill shewed a distrust of the affections of the people, without which no king could be safe or happy; that king *William* had gained the hearts

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of

of his people by the triennial act; and it would look somewhat strange, that the most popular of our laws should be repealed in a year after the *protestant* succession took place.

The earl of *Peterborough* said, He wished he could give his vote for the bill; but that he could not be for a remedy that might cause a greater evil; and that if this present parliament continued beyond the time for which they were chosen, he knew not how to express the manner of their existence, unless (begging leave of the venerable bench, turning to the bishops) he had recourse to the distinction used in the *Athanasian* creed, for they would neither be *made* nor *created*, but *proceeding*.

The earl of *Nottingham* was against the bill, because he thought it would rather exasperate, than quiet the minds of the people; and that though he could not assign the true cause of the people's dissatisfaction, yet there must have been some secret cause for it: That he hoped people's discontent was not so great, as had been represented; that this bill seemed to imply that the affections of the people were confined to so small a number as the present house of commons; that whatever reasons may be given for continuing this parliament for four years longer, would be at least as strong, (and by the conduct of the ministry might be made much stronger) for continuing it still longer, and even for perpetuating it; which would be an absolute *subversion* of the third estate of the realm. He then hinted at the danger of enlarging the *prerogative*, and instanced in the precedent of *Henry VIII.* who persuaded his parliament to give him the abbey-lands under pretence that they would bear part of his expences, which would ease them of taxes, and im-  
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prove trade; but that soon after he demanded, and obtained, great subsidies, and made use of those lands to enslave the people.

The duke of *Argyle* said, that designs had been laid to bring in the pretender, long before the king's happy accession to the throne; and that if the conspirators had improved the ferment, at the election of the last parliament, it was probable their wicked schemes for setting aside the protestant succession had taken place.

The bishop of *London* said, he was confounded between danger and inconveniences on one side, and destruction on the other. After a debate of five hours the question being put, it was carried in the affirmative, 24 lords protesting against passing the bill, 'Because frequent parliaments were the fundamental constitution of the kingdom. Because the house of commons ought to be chosen by the *people*; and when continued for a longer time, than they were chosen for, they were then chosen by the *parliament*, and not by the people. They conceived that the bill, so far from preventing corruption, would rather increase it; for the longer a parliament was to last, the more valuable, to corruptors, would be the purchase. And that all the reasons that had been given for long parliaments, might be given for making them perpetual, which would be an absolute subversion of the third estate.'

In the same debate in the house of commons the court-members said, the septennial bill would strengthen the hands of the king; settle and maintain the protestant succession; encourage our allies to depend upon us, that what shall hereafter be stipulated shall be performed; would

would break our parties and divisions, and lay a solid foundation for future happiness. And since the present parliament have exerted themselves for the public good, why should they not continue longer together, that they may finish what is so happily begun?

The opposition denied that the people were distressed, said the parliament, that had done so great things, were but little more than a year old, and that nobody could imagine that discontents (if there were any) would last the remainder of their term, under so wise, so unerring, so pacific an administration as they then enjoyed. Was the frame of our constitution to be altered, before our allies would favour us with their friendship? That was an argument very improper to be urged in a *British* parliament. It was acknowledging, that the king dares not trust the people in a new choice. It is a dishonour to this house; for it supposes that another house of commons would act differently from the present, which is to confess, that this house does not truly represent the people. The trust, they said, was triennial; and if it was continued longer, from that instant they ceased to be the trustees of the people, from that instant they acted by an assumed power and erected a new constitution; and though it is a received maxim, That the *supreme* legislature cannot be *bound*, yet it must be understood that it was restrained from subverting the foundations on which *itself* stood. And now after above an hundred millions given by the people, in order to preserve their old form of government, a bill is sent from the lords, which if it passes, must expose us again to the *greatest* of dangers, which is that of a *long* parliament. In the pensioned parliament, the

the means of temptation in the minister's hands were not so great as they now are; the civil list nearly double to what it then was; and the dependence on the crown greatly enlarged by reason of the increase of officers for managing the public funds. What influence these may have upon an exhausted nation, under the terror which 40,000 regular troops carry with them, is easily foreseen. Can the lords think us so ungrateful, as to join in the destruction of the power that raised us; and why cannot we content ourselves with proceeding in the common methods, which the usage of many ages justifies?

It was resolved however, 184 against 162, that the bill be committed.

What follows is taken from *Hutcheson's* speeches on the same occasion. 'If we should give our consent to the passing of the bill before us into a law, we should be guilty of a most notorious breach of the trust reposed in us, by those who sent us hither, and should make a very dangerous step towards the undermining of that constitution, which our ancestors have been so careful to preserve, and thought no expence either of blood or treasure too much for that purpose, and under which we do yet enjoy those privileges and advantages, which no other nation in the world can at this day boast of. It must be agreed, that before the reign of *Henry VIII.* there was no single instance of a prorogation of parliament. That parliaments had only one session, and those generally very short ones, none of which ever lasted a year. That to prevent the mischief of long intervals of parliament, it was enacted, in the 4th of *Edward III.*

Edward III. that parliaments should be holden annually; and this was confirmed by subsequent acts of parliament. And therefore I may venture to affirm, that by the antient constitution, parliaments were to be holden frequently, and to be of the continuance only of one session, and that there was no right or power in the crown to prorogue the same. I wish gentlemen would as generally concur that the other part which I have mentioned, and I think have made appear to have been our antient constitution, is as absolutely necessary to the preservation of our liberties, I mean parliaments of one session, not only frequent parliaments, but frequent *new* parliaments. The thing indeed appears very evident to me, so evident that in my poor opinion our liberties would not be more, nay not so precarious under an *absolute* monarch, as with a house of commons who had a right to sit either for many years together, or without any limitation of time. For 'tis certain that a prince, who had stood only on the bottom of his own absolute authority, supported by a few ministers, and some troops, would still think himself pretty much upon his good behaviour towards the united body of his people; and would probably be cautious of exerting his power in such a manner as to give a just provocation to a general revolt, and setting up another in his stead; but a prince, with a *parliament* at his devotion, would be infinitely more terrible, and with much greater security might give a loose to every extravagancy of power; for when the representatives of the people, who are chosen by them to be the *guardians* of their liberties, can be prevailed on, for little advantages to themselves, to *betray* their trust, and come into all  
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‘ the measures of a designing ministry; ’tis then, indeed, that the liberties of a people are in the most imminent danger; and surely there is great reason to apprehend that a house of commons might soon become very obsequious to a minister, if they were to sit for a long period, or without limitation, and that there were in view no *near* day of a new election, when the conduct of gentlemen in this place would be inquired into in their respective countries. I remember very well, what an outcry was raised against the last parliament, on suspicion only that a repeal of the triennial act was intended; and the arguments against it without doors, were then the very same with those which are now urged against it within: what an inconsistency must it then appear to see those very gentlemen, who were then the most zealous opposers of such an attempt, become now the most violent advocates for it! And will it not also in some measure affect their integrity, publicly to own that the arguments they pretended to be then influenced by, had not the least weight with them; and that the thing in itself was very desirable when there should be a good ministry and parliament in being, and pernicious only in the then situation of affairs? It was not certainly from this consideration that the late ministry and parliament were diverted from the attempt: they doubtless had a very good opinion of themselves, and were confirmed therein by the voice of a great majority of the people; and which, by a most strange and unaccountable witchcraft, still continues in their favour; if I may depend upon what several who have argued for the bill seem to have agreed to.’

An attempt was made in the year 1734, for shortening parliaments. On which occasion Mr. *Plummer* spoke as follows.

I wish we would take an example from the crown in one thing. We may observe, that the crown never gives a place or employment for *life*, or for a long term of years, except such as cannot be otherwise disposed of, and the reason is plain: were these places given for life, the grantee would then be out of the power of the crown, and consequently would not have such a dependance on it, as those persons must have who enjoy their places during pleasure only. — In this the crown acts wisely, and I wish we would follow the example: when I say *we*, I speak of the gentlemen present, not as members of this house, but as a part of the people of *Great Britain*: it would certainly be the height of wisdom in the people to keep those they trust and employ in their service as much in their power as possible. If those, the people choose to represent them in this house, were to continue in that station only during the pleasure of the people, the representatives would, I believe, have a proper regard for the interests of the people, and would never think of throwing off all dependance upon them.

As bribery and corruption, says Mr. *Wynne*, in the same debate, is a natural consequence of long parliaments, as it must always increase in proportion as the term for the parliament's continuance is prolonged, I am persuaded that all those who are against bribery and corruption will join with me in voting for the restitution of triennial parliaments. It is not

not the *expence* of an election that country gentlemen are to be afraid of; the most extravagant entertainments, that a stranger in the country could give, would have but little weight, if to these he did not add downright *bribery*; and even then bribes must be so high as to overbalance the natural interest of the country gentleman, as well as the honesty of the greatest part of the electors: as these bribes cannot be made so high for a triennial parliament, as they may for a septennial, they cannot be so prevalent among the electors; and therefore a gentleman, who depends upon nothing but his *natural* interest, will always have a *better* chance for representing his country in a triennial parliament than he can have in one which is to continue for seven years; for which reason I cannot but think that any gentleman who has a mind that his posterity shall depend for their seats in parliament upon the natural interest they may have in their respective countries, and not upon the frowns or the favours of the ministers for the time being, must necessarily be for our returning to our former constitution in this respect. This, Sir, is in my opinion absolutely necessary; and it must be done soon, otherwise country gentlemen, tired out with contending against those who purchase their elections, perhaps with the *very money* which the country gentlemen are obliged to pay out of their estates in public *duties* and *taxes*, will at last have nothing to do but to sit down and bemoan the fate of their country: but the complaints will then be to very little purpose: for the doors of that place where the groans of the people ought to be heard, will then be shut against them: we may depend on it, that those who obtain their seats in this house by ministerial

‘ ministerial influence, will, while here, be directed  
 ‘ in all their proceedings by the same sort of influence,  
 ‘ and by none other ‘.

‘ Ever since we have had *septennial* parliaments, our  
 ‘ elections have been generally attended with distractions  
 ‘ and *confusions*; but I cannot allow, that this would  
 ‘ be the case if they were *annual*, or even *triennial*:  
 ‘ and I would gladly ask gentlemen, if before that time  
 ‘ it was ever known that the solicitations and conten-  
 ‘ tions about elections began *two* years before the chus-  
 ‘ ing of a new parliament, which is known to be the  
 ‘ case at present over the whole kingdom, and which  
 ‘ always must necessarily be the case; it being natural  
 ‘ for men to contend with more vigour and heat for  
 ‘ a post either of honour or profit, that is to be en-  
 ‘ joyed for *seven* years, than for one that is to be held  
 ‘ but for *one*, or for three. Then, Sir, as to the  
 ‘ bribery and corruption at elections, I am sure it has  
 ‘ very much increased since the *septennial* law took  
 ‘ place. It is a natural consequence of lengthening  
 ‘ the time of a parliament’s continuance; a conse-  
 ‘ quence so natural, that I am surprized to find it  
 ‘ so much mistaken as it seems to be by some gentle-  
 ‘ men who have spoken upon the other side of the  
 ‘ question. It is certain, Sir, that *bribery* will never  
 ‘ be made use of at any election, but by a man who  
 ‘ has not a sufficient *natural* interest in the place where  
 ‘ he declares himself a candidate; and by such we  
 ‘ may expect it will always be made use of, as far as  
 ‘ it can be done with safety, if the candidate has but  
 ‘ the least hopes of succeeding by such dishonourable  
 ‘ means. Where there happens a competition, every  
 ‘ elector has a natural byass to vote for one man rather  
 ‘ than

than another. And every elector will vote according to his natural byass, if he is not bought off. Whoever endeavours to buy him off, must certainly come up to his price; and this price will be higher or lower according to the elector's honour and circumstances, and the natural byass he has for the other candidate. A great many men may be perhaps bought off with 100 or 1000 guineas; who if *half* that sum were offered would spurn it away with an *empty* disdain. I hope, Sir, there are a great many electors in this kingdom; whose honour upon such occasions, is above the power of any such corrupt temptations: but that there are likewise a great many who may be bought, is a fact which I believe no gentleman in this house will dispute; and in this view let us examine the difference between triennial and septennial parliaments. Give me leave then to suppose two gentlemen set up in opposition to each other for representing one of our little boroughs in parliament; one of them a country gentleman of a great natural interest in the place; the other a citizen of *London*, or a placeman not near equal to him in interest; but depending entirely upon the money he is able to lay out. Suppose the citizen or placeman comes to a calculation, and finds that it will cost him at least 5000*l.* to buy the country gentleman out of his interest in that borough; if the parliament were to continue but for three years, he would very probably resolve not to be at such an expence, and so would refrain from being guilty of the crime of corrupting his countrymen; but when the parliament is to continue for seven years, he may as probably resolve to be at that charge. Thus by corruption he may get a seat in this house, and it

' is to be feared that he, who comes in by corruption,  
' will not walk out with clean hands. Gentlemen  
' are very much mistaken if they imagine that the  
' price of an elector depends upon the duration of a  
' parliament, or that a man who sells his vote for  
' 100 guineas at an election for a septennial parliament,  
' would sell his vote for the half of that sum, if the  
' parliament to be chosen were to continue only for  
' three years. No, Sir, there are very few of this  
' sort of electors who think of futurity; the *present*  
' offer is the temptation, and the only temptation which  
' can be of any weight with them. Besides, they can-  
' not depend upon having the like offer made them at  
' the next election; and 50 guineas ready money with  
' an *uncertain* hope of having 50 more three years  
' hence, is not, surely, so great a price, as 100 guineas  
' *ready down*. The natural interest of the country  
' gentleman, and the honour of the electors, are what  
' the dealers in corruption have to contend with; and  
' against these a small price cannot be so prevalent as  
' one a little higher. Some may perhaps be corrupted  
' by a small price; but certainly the *higher* it is, the  
' greater will the *numbers* be that are tempted to yield  
' to it; and as a man may give a higher price at the  
' election for a septennial parliament than he can do at  
' one for an annual or triennial, therefore the greater  
' the numbers will be of those who yield to his temp-  
' tation, the more he may depend upon corruption;  
' and the more it is to be depended on, the more  
' general and the more frequent will it certainly be.  
' From hence it appears evident, that the *increase* of  
' bribery and corruption is as natural a consequence of  
' septennial parliaments, as any one thing can be con-  
' ceived to be the consequence of another. There is  
' no way, Sir, of effectually preventing corruption,  
' but

' but by putting it out of the *power* of any man to  
 ' corrupt: there is no corrupting any man but by com-  
 ' ing up to his price; therefore the only way of put-  
 ' ing it out of the power of any man to corrupt, is to  
 ' put it out of the power of any man to come up to  
 ' the price of any number of electors; and this can  
 ' only be done by making our elections frequent: the  
 ' more frequent, the better. It is certain, a gentle-  
 ' man, who enjoys a good pension for seven years, is  
 ' more able to give a high price, than if he had en-  
 ' joyed that pension but for one year or even for three;  
 ' and he will more willingly give a high price, when  
 ' he is thereby to purchase the continuance of the pen-  
 ' sion for seven, than for one, or for three. This, Sir,  
 ' is so evident, that I am astonished to hear it contro-  
 ' verted within these walls. If our parliaments were  
 ' annual, it would be impossible for place-men or pen-  
 ' sioners to save as much *yearly* as would be sufficient  
 ' to bribe country gentlemen out of their interest, and  
 ' the electors out of their honesty; which I am afraid  
 ' is a practice now too frequent in many parts of this  
 ' kingdom. How can it otherwise be imagined, the  
 ' people would chuse persons they never saw, persons  
 ' they perhaps *never heard of*, in opposition to gentle-  
 ' men who live in the *neighbourhood*; gentlemen  
 ' who give them daily employment, by buying in their  
 ' shops and markets all the manufactures and provisions  
 ' they have use for in their families, and gentlemen  
 ' whose ancestors have perhaps often represented that  
 ' very place in parliament with great honour and uni-  
 ' versal approbation?'

Sir *William Wyndham*, in the same debate, shews  
 the evil of long parliaments in *one* view as follows.

' Let us suppose a gentleman at the *head* of the *ad-*  
 ' *ministration*, whose only safety depends upon cor-

rupting the members of this house. This may now  
 be only a supposition, but it is certainly such a  
 one as may happen; and if ever it should, let us see  
 whether such a minister might not promise himself  
 more success in a septennial than he could in a tri-  
 ennial parliament. It is an old maxim, That every  
 man has his price, if you can but come up to it.  
 This I hope does not hold true of every man; but  
 I am afraid it too generally holds true; and that of  
 a great many it may hold true, is what I believe  
 was never doubted of; though I don't know but it  
 may now be denied: however let us suppose this dis-  
 tressed minister applying to one of those men who has  
 a price, and is a member of this house. In order to  
 engage this member to vote as he shall direct him,  
 he offers him a pension of 1000 *l.* a year: if it be  
 but a triennial parliament, will not the member im-  
 mediately consider thus within himself, If I accept  
 of this pension, and vote according to direction, I  
 shall lose my *character* in the country; I shall lose  
 my seat in parliament the next election, and my pen-  
 sion will then of course be at an end; so that by  
 turning *rogue* I shall get but 3000 *l.* This is not  
 worth my while. And so the minister must either  
 offer him perhaps the double of that sum, or other-  
 wise he will probably determine against being cor-  
 rupted. But if the parliament were septennial, the  
 same man might perhaps say within himself, I am  
 now in for seven years. By accepting of this pension  
 I shall have at least 7000 *l.* This will set me above  
 contempt; and if I am turned out at next election,  
 I do not value it. I'll take the money in the mean  
 time. Is it not very natural to suppose all this, Sir?  
 And does not this evidently shew that a wicked mi-  
 nister cannot corrupt a triennial parliament with the

' same money as he may a septennial? Again, sup-  
 ' pose this minister applies to a gentleman who has  
 ' purchased, and thereby made himself member for a  
 ' borough at the rate of perhaps 1500 *l.* besides travel-  
 ' ing charges and other little expences: suppose the  
 ' minister offers him a pension of 500 *l.* a year to en-  
 ' gage his vote; will not he naturally consider if it  
 ' be a triennial parliament, that if he cannot get a  
 ' higher pension, he will lose money by being a mem-  
 ' ber; and surely if he be a right burges, he will  
 ' resolve not to sell at all, rather than sell his com-  
 ' modity for less than it cost him; and if he finds he  
 ' cannot sell at all, he will probably give over stand-  
 ' ing a candidate again upon such a footing; by which  
 ' not only he but many others will be induced to give  
 ' over dealing in corrupting the electors at the next  
 ' election. But if it be a septennial parliament, will  
 ' he not then probably accept of the 500 *l.* pension,  
 ' if he be one of those men that has a price? Will  
 ' he not conclude, that for 1500 *l.* he may always  
 ' secure his election, and every parliament will put  
 ' near 2000 *l.* in his pocket, besides reimbursing him  
 ' all his charges. After viewing the present question  
 ' in this light, is it possible, Sir, not to conclude that  
 ' septennial parliaments, as well as the elections for  
 ' them, must always be much more liable to be influ-  
 ' enced by corruption, than triennial, or the elections  
 ' for them, &c.' Afterwards he goes on as follows:

' Suppose, Sir, that the generality of the electors  
 ' in *England* have virtue enough to withstand a temp-  
 ' tation of 5 guineas each, but not enough to resist

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\* All articles are enhanced in their prices. There are no  
 boroughs to be had for 1500 *l.* in our times.

‘ the force of 10 guineas, one with another : is  
‘ it not then much more probable that the gentlemen  
‘ who deal in corruption may be able to raise, as much  
‘ money once every seven years as will be sufficient to  
‘ give 10 guineas each one with another to the generality  
‘ of the electors, than that they will be able to raise  
‘ such a sum once in every three years. And is it not  
‘ from thence certain, that the virtue of the people  
‘ in general is in greater danger of being destroyed by  
‘ septennial than by triennial parliaments ? To sup-  
‘ pose, Sir, that every man’s vote at an election is  
‘ like a commodity, which *must* be sold at the market-  
‘ price, is really to suppose that no man has any vir-  
‘ tue at all : for I will aver, that when once a man  
‘ resolves to sell his vote at any rate, he has then no  
‘ virtue left ; which I hope is not the case of many  
‘ of our electors ; and therefore the only thing we are  
‘ to apprehend is left so *high* a price should be offered  
‘ as may tempt thousands to sell who had *never* be-  
‘ fore any thoughts of carrying such a commodity to  
‘ market. This, Sir, is the fatal event we are to  
‘ dread, and is much more to be dreaded from septen-  
‘ nial than from triennial parliaments. If we have  
‘ therefore any desire to preserve the virtue of our  
‘ people ; if we have any desire to preserve our consti-  
‘ tution ; if we have any desire to preserve our liber-  
‘ ties, our properties, and every thing that can be  
‘ dear to a free people, we ought to restore the trien-  
‘ nial law ; and if that be found too insignificant, we  
‘ ought to abolish prorogations, and return to annual  
‘ elections.’—Afterwards he adds what follows ;

‘ The crown, either by ill management or by pro-  
‘ digality and profuseness to its favourites, has spent  
‘ or granted away all its estates, and the public ex-  
‘ pence

' pence is so much enlarged, that the crown must have  
 ' annual supplies, and is therefore under a necessity  
 ' of having the parliament meet every year; but as  
 ' new elections are always dangerous, as well as trouble-  
 ' some to the ministers of state, they are for having  
 ' them as seldom as possible; so that the complaint is  
 ' not now for want of frequent meetings or *sessions*  
 ' of parliament, but against having the *same* parlia-  
 ' ment continued too long. This is the grievance  
 ' now complained of; this is what the people want  
 ' redressed; it is what they have a *right* to have re-  
 ' dressed. The members of parliament may for *one*  
 ' year be looked on as the real and true representa-  
 ' tives of the people; but when a minister has seven  
 ' years to practise upon them, and to feel their pulses,  
 ' they may be induced to forget whose representatives  
 ' they are; they may throw off all dependance upon  
 ' their electors, and may become dependants upon the  
 ' crown, or rather upon the minister for the time  
 ' being.'

Sir *J. St. Aubyn* observed, in the same debate, that  
 parliaments were generally annual, but never longer  
 than triennial, till *Hen. VIII.* (an obstinate tyrant,  
 who broke through all the laws of God and man,  
 when they stood in the way of his ambition, avarice,  
 or lust) introduced long parliaments, as proper means  
 for enslaving the nation. Sir *John* gives an account  
 much too favourable of *Ch. I.*'s character, and of  
 his hatred to parliaments. *Ch. II.* would have laid  
 parliaments aside; but could not. Therefore he con-  
 trived to debauch them. And his long pensioned-  
 parliament will be infamous through all ages. 'It

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‘was the model,’ says Sir *John*, ‘from which, I believe, some later parliaments have been exactly copied.’ At the revolution, the people claimed their antient right. The triennial law was then established. The septennial law was intended only as a preservative against a temporary inconvenience. The inconvenience being removed, the remedy, which was itself an evil, and a violation of the constitution, ought to be removed, and the constitution restored. Long parliaments become independent on the people, and dependent on the court. If the members are to deny all power in the people to instruct them, and are to sit seven years together voting as they please, in spite of the people, how are they a representative of the people? And if they may sit seven years, though the people have commissioned them only for three, why may they not make themselves perpetual, like the lords, and set the people aside? The power of the crown is always increasing. Therefore members ought to come frequently into the power of their constituents, that they may be kept under the constant awe of acting contrary to their interests. Dangerous attempts on liberty have been prevented by the approach of a general election. Which shews the advantage of short parliaments, which would occasion general elections to be always near. Long parliaments are an unjust exclusion of a great number of gentlemen of property, who ought to have their turn in serving their country. Frequent new parliaments would be a great advantage to our kings. Were parliaments annual, a king might, in the course of 28 years, have the advice of 28 gentlemen, where now he has only that of four. Short parliaments have always been less corrupt than long ones; because a minister must

must have time to lay his plans of operation, and erect his batteries against the virtue of the members, and men are not immediately debauched. Besides, the shorter parliaments are, the less it is worth a minister's while to bribe the members, for votes in the house; because the shorter time his iniquitous schemes can stand securely if he gains them. And this must of course *lessen* the expences, the animosities, and the corrupt proceedings of elections. Long parliaments *first* introduced bribery because they were *worth* purchasing at any rate; country gentlemen who have only their private fortunes to rely upon, and have no mercenary ends to serve, are unable to oppose corruption, especially if at any time the public treasure shall be unfaithfully squandered away to corrupt their boroughs. 'Country gentlemen, indeed, may make 'some weak efforts; but as they generally prove unsuccessful, and the time of a fresh struggle is at so 'great a *distance*, they at last grow faint in the dispute, 'give up their country for lost, and retire in *despair*. 'Despair naturally produces *indolence*, and that is the 'proper disposition for *slavery*. Ministers of state understand this very well, and are therefore unwilling 'to awaken the nation out of its lethargy by frequent 'elections. They know that the spirit of liberty, like 'every other virtue of the mind, is to be kept alive 'only by constant action; that it is impossible to enslave the nation, while it is perpetually upon its guard. 'Let country gentlemen then, by having frequent opportunities of exerting themselves, be kept warm and 'active in their contention for the public good. This 'will raise that zeal and indignation which will at last 'get the better of these undue influences, by which the 'officers of the crown, though unknown to the several 'boroughs, have been able to supplant country gentlemen

' men of great character and fortune who live in their  
 ' neighbourhood. I do not say this upon idle specula-  
 ' tion only. I live in a country where 'tis too well  
 ' known, and I will appeal to many gentlemen in the  
 ' house, to more out of it (and who for *this* very reason  
 ' are out of it) for the truth of my assertion. It is a  
 ' fore which has been long eating into the most vital  
 ' parts of our constitution, and I hope the time will  
 ' come when you will probe it to the bottom. For if  
 ' a minister should ever gain a corrupt familiarity with  
 ' our boroughs, if he should keep a register of them  
 ' in his closet, and by sending down his treasury man-  
 ' dates should procure a spurious representation of the  
 ' people, the offspring of his corruption, who will be  
 ' at all times ready to reconcile and justify the most con-  
 ' tradictory measures of his administration, and even  
 ' to vote every crude undigested dream of their patron  
 ' into a *law*; if the maintenance of his power should  
 ' become the sole object of their attention, and they  
 ' should be guilty of the most violent breach of parlia-  
 ' mentary trust, by giving the king a discretionary li-  
 ' berty of taxing the people without restraint or con-  
 ' troul; the last fatal compliment they can pay to the  
 ' crown;—if this should ever be the unhappy circum-  
 ' stance of this nation, the people indeed may complain  
 ' to the crown, but the doors of that place where their  
 ' complaints should be heard, will be for ever shut  
 ' against them \*.'

In the same debate, Sir *J. Hinde Cotton* observed,  
 that the *worst* of our laws have been made by septen-  
 nial parliaments; as the septennial act itself; the law  
 of treason, by which a supposed traitor might be tried  
 in any part of the country at the greatest distance from  
 his

his friends and acquaintance; the riot-act; the S. S. act; the plague-act; the excise scheme (which indeed proved abortive); to which add the smuggling-act; the gin-act; the marriage-act; the stamp-act, &c. &c. &c.

‘ Long parliaments’ (says Mr. *Bromley*, in the same debate) ‘ have in former reigns proved the unhappy cause of great calamities to this nation, and have been at all times declared an innovation upon our constitution. The people looked upon the septennial bill as a dangerous infringement upon their liberties, notwithstanding the pretence alledged in the preamble to the act, which seemed at that time to carry some weight with it.—That in former times prorogations were unknown, and that as soon as the business of a parliament was over, it was dissolved, and a new one called the next year.—That the bill of rights declares, that frequent and *new* parliaments tend very much to the happy union and good agreement between king and people.—That the septennial act in its preamble complains of the expence and trouble of triennial parliaments, and therefore, very absurdly, instead of proposing what would have produced a cure, viz. the reduction of parliaments to *annual*, proposes to *aggravate* the evil by *lengthening* their period.—That the multiplicity of places held by members, is a principal cause of contests and expences about elections.—That long parliaments are as demonstrably to the people’s disadvantage, as it is demonstrably advantageous to have an annuity for 7 years, rather than for one <sup>a</sup>.’

It has been observed by some defenders of long parliaments, that even the long pensioned parliament under *Ch. II.* became more faithful to the interest of the

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<sup>a</sup> DEB. COM, VIII. 137.

the people, and more intractable to the court, at last, than at first. Sir *J. Barnard* gives a very satisfactory answer to this in the same debate<sup>a</sup>. 'As to the long parliament in king *Charles's* time, though they did not toward the end shew the same servile compliance that they had done many years before, yet it is plain that the crown thought that parliament fitter for the purposes of the court, at that time, than they could expect any new parliament chosen by the people to be; otherwise, as the king had it in his power, he would have certainly dissolved them much sooner: and if that long parliament really deserved the name usually given to it, we must conclude that their non-compliance at last was not owing to their virtue, or a want of inclination to receive, but to a want of power in the crown to give. The people were not then accustomed to bear such heavy burdens as they do at present, the revenues of the crown were not so large, nor the posts and places, at the disposal of the crown, so numerous; there was not such a formidable standing army, to support the parliament, in case they had gone on in the same servile method. And as the complaints of the people grew loud and clamorous, as there was little to be got and a great deal to be apprehended, by the continuance of a servile compliance with the court's measures, it is very probable that these were the true reasons of that parliament's becoming at last so restive. If the nation was now in the same state it was at that time, I should not be half so much afraid of septennial parliaments as I think I have now good reason to be.'

Sir *J. Barnard* gives a very good answer to the trite and disingenuous objection against short parliaments, which

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<sup>a</sup> DEB. COM. VIII. 181.

which our courtiers are always playing off upon us. The animosities, disputes, and divisions about elections, says he, have been set in the most dreadful light, and have been represented as so great an inconvenience, that we ought to run the risk of having our *constitution overturned* rather than submit to it. But, Sir, can it be imagined that there would be the same contention for a seat in parliament which was to continue but for one year, or even for three, that there is for one which is to continue for seven? The example of the city of *London* plainly shows us the contrary. As the common-council-men and a great many other officers in the city are chosen annually, I have had occasion to be often present at these annual elections, and never could find, that they were attended with any great heats and animosities, or with any inconvenience; for after the election is over, the contending parties go home and live in the same friendship they did before. And I am convinced the case would be the very same, if annual elections for members of this house were restored. The same man might perhaps be continued and rechosen every year for many years together, probably without any dispute or opposition; but his being liable every year to be turned out, would be a continual check upon his behaviour, and would make him study the interests of the people, instead of pursuing only some private and selfish views of his own. Even as elections stand at present, there would be no such contentions, nor any such heats and animosities as we hear of if they were entirely left to gentlemen who have a natural interest in the place: in such case, if a candidate found himself defeated by fair means only, and merely by the superior interest of his antagonist, it would not raise his

his indignation; it would occasion no heats or animosities; he would wait with patience for a new opportunity, and in the mean time would endeavour to recommend himself to his country by acts of hospitality and benevolence. It is *ministers of state* intermeddling in elections; it is *election-brokers* and such dealers in corruption, that occasion all the heats and animosities we have; for when a gentleman of a great natural interest in a place sees his electors obliged by *power*, or bribed by *money*, to vote against him, perhaps in favour of an utter stranger; it cannot but raise his indignation; it may indeed be expected to raise his utmost fury and revenge. It is certain, Sir, that if the people were entirely left to themselves; they would without much contention always chuse those gentlemen who, by having large properties of their own, might be reasonably supposed to be such as would take the best care of the properties of their fellow subjects: but if the people should ever begin to see their representatives making their seats in parliament places of profit, and bartering their votes and their behaviour in parliament for posts, places, and pensions; the people will soon follow the example of their representatives, and will insist upon sharing with them in the profits. Thus, by degrees, the minds of the people will be debauched; they will be brought to think, that the selling their votes at elections is no crime; the representatives, who *buy* their seats, must *sell* their votes; and at last all regard for the public good will be generally laid aside by all sorts of men. The only effectual method, Sir, of preventing this fatal effect is to restore annual elections; for then it would be impossible

even for the *treasury* itself, if ever the public money should come to be so misapplied, to issue yearly sums of money sufficient to get the better of the natural interest, which country-gentlemen always have in the places where they and their families have perhaps for many generations resided. The consequence of which will be, that none but country gentlemen, and those who have a natural interest in the place, will ever appear as candidates. And thus neither the morals of the people will be debauched, nor their properties plundered, nor their liberties destroyed, by those election-brokers and ministerial agents, or their candidates, who never can be employed or set up but for such base purposes. As for our credit *abroad*, which it is pretended septennial parliaments very much contribute to, I think it is evident that it has been *sinking* ever since the *septennial* law took place; which confirms what was justly observed by an honourable gentleman, That the credit of the nation among foreigners does not depend upon the length or shortness of our parliaments, but upon that correspondence and *confidence* which ought always to be kept up between the *king* and his *people*. I will not say, that this decay of our credit abroad has been altogether owing to the septennial law, but I dare say, if our parliaments had not been septennial, they would probably before now have enquired into the conduct of those who have been the causes of this decay; and whatever reasons the decay of our credit among foreigners may have been owing to, it is now come to so low an ebb, that we really seem to have almost none to lose. And as I think nothing can so effectually restore our credit abroad as the restoring

\* ing our constitution at home, I shall therefore give  
\* my vote for the question <sup>a</sup>.'\*

The sense of the city of *London* on long parliaments;  
is manifest from the following instruction to their  
members, *A. D.* 1741.

\* When we reflect on the danger of entrusting  
\* power too long in the same hands; when we con-  
\* sider how often in former times the liberty of this  
\* country has been sacrificed and sold by long conti-  
\* nued parliaments; and that a frequent recourse to  
\* their constituents, the people, is a certain and ne-  
\* cessary check to bad measures and worse intentions;  
\* we require you to prosecute in the most vigorous  
\* manner a repeal of the septennial act, and to restore  
\* the salutary form of triennial parliaments, as the  
\* principal means of securing the rights, and support-  
\* ing the dignity of a free nation <sup>b</sup>.'\*

In the debate on a motion for annual parliaments,  
*A. D.* 1744, Mr. *Thomas Caraw* argued as follows;

\* Sir, The members of this house are the great  
\* and general inquest of the nation. We are to take  
\* notice of, and to take proper methods for redressing  
\* all the grievances that occur, whether they be such  
\* as relate to the kingdom in general, or such as  
\* relate to the particular counties, cities, or boroughs  
\* we represent. Now as grievances are almost an-  
\* nually occurring, and as some grievances are the  
\* more difficult to be removed, the longer they con-  
\* tinue; therefore it is necessary we should visit our  
\* constituents at least *once* a year, to know their senti-  
\* ments, and to examine, upon the spot, the grie-  
\* vances they complain of. But this is not to be  
\* expected, unless you make the elections annual; for  
\* we

<sup>a</sup> *DEB. COM. VIII. 181.*

<sup>b</sup> *Ibid. XIII. 16.*

we find by experience that after gentlemen are once chosen for a long term of years, they fix their abode in this city, and seldom revisit their constituents, till it becomes necessary for them to go down to solicit their votes at a new election. Nay, since the establishment of septennial parliaments, we have often had gentlemen in this house who never saw the borough that sent them hither, nor knew any thing of its constitution or interest; perhaps could not recollect its name, till they looked into the printed lists of parliament for their own name, and there found they represented such a borough. Another part of our business, Sir, is to represent to our sovereign the sentiments of our constituents with regard to the measures he is advised by his ministers to pursue, as well as the persons he employs in the executive part of government. If we ever think of doing this faithfully and sincerely, we must visit our constituents at least *once* a year, because every year produces some new measure, and every year some new persons are introduced into public business. This I say is another part of our duty, and when it is faithfully and sincerely performed, it is of great advantage to the prince upon the throne, because it prevents his being led on in a track of unpopular measures, till both he and his ministers are overwhelmed in the torrent of popular resentment, which often happens in arbitrary countries, where the prince is tumbled headlong from his throne, before he knows any thing of his having pursued unpopular or wrong measures; whereas, had he had timely information, he might have restored himself to the love and affection of his subjects, by making a just sacrifice of his wicked counsellors to the resentment of his oppressed people. As the *prince* can have no

VOL. I. . . . . interest,

' interest, separate from his people; his interest, if he  
 ' rightly considers, must lead him to gain the love  
 ' and esteem of his people, and to avoid every thing  
 ' that may give them discontent. It is therefore *his*  
 ' interest to have always a house of commons, that  
 ' knows, and will faithfully and speedily represent to  
 ' him the complaints and grievances of his people.  
 ' But this is directly opposite to the interest of his  
 ' *ministers*. In all countries, and in this as much  
 ' as any other, ministers have an interest separate from  
 ' that of the people. They are for enriching them-  
 ' selves, their families, tools and sycophants, at the  
 ' expence of the people; and it is their business to  
 ' keep all the avenues to the throne shut up against  
 ' the complaints of the people, lest the prince should,  
 ' as every wise one will, sacrifice them to his own  
 ' security. Ministers must therefore be for having  
 ' always a house of commons, that either does not  
 ' know, or will not faithfully represent to their sove-  
 ' reign, the complaints and grievances of the people;  
 ' and as we are much more affected with what we  
 ' see than with what we hear of, it is the business of  
 ' a minister to prevent the members of this house, if  
 ' possible, from ever seeing their constituents; because  
 ' the less we are affected with, the more easily we may  
 ' be prevailed on to conceal from our sovereign, or  
 ' even to misrepresent to him the complaints of the  
 ' people. Thus, Sir, it is apparently the interest of  
 ' the *king*, it is apparently the interest of the *country*,  
 ' to have *short* parliaments and frequent general elec-  
 ' tions; but it is apparently the interest of *ministers*,  
 ' especially *wicked* ministers, to have parliaments as  
 ' long and general elections as seldom as possible.'

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It was argued by Mr. *Cartu*, in the same debate, that it would be very imprudent for a private person to give a power of attorney for a *long* time, when he might for a *short*; that it is equally imprudent for the people to give parliament a power of attorney for 7 years, when they may restrict it to three, or to one\*.

Mr. *Sydenham*, in the same debate, shews, that long parliaments produce and increase corruption of *manners* in the people. That the virtues of both patriotic and military courage are overlooked and unrewarded by a corrupt ministry, and *parliamentary* interest, and usefulness in carrying on their dirty schemes, *only* taken notice of at court; [so that the way to our *modern* temple of honour is through the temple of corruption.] That the old *English* hospitality is destroyed by gentlemen's taking up their residence at *London*, where they are in the way of hanging upon the minister, and waiting at the catch for places as they fall. That their country seats are thus left desolate, and the land is become a desert. That long parliaments, and consequent corruption, strike at the very root of moral *benefit*. For what is soliciting for a vote, but gravely proposing to a man to declare himself a *rascal*? And what is a man without probity, or a woman without chastity? Whoever has forfeited his or her character in these cardinal articles, we naturally suppose capable of every species of vice. That electioneering destroys all *frugality* and *industry* in the people, and makes them neglect their lawful employments to go a madding; which would not be, if parliaments were shortened, because it would not

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\* *Alm. DEB. COM. II. 1.*

be *worth while* to make a contest about an election, &c.

Lord *Hillsborough*, in the debate on the regency-bill, *A. D.* 1751, in which it was proposed, that the parliament which should be sitting at the demise of *Geo. II.* should sit three years after the accession of his present majesty, spoke, on that clause, as follows: 'It is a measure at no time eligible; in the present time it may be dangerous. It has been advanced, that parliaments have a *power* and right to *prolong* their duration, and that the *salus populi* frequently requires it. But I do absolutely deny that a parliament has any legal power, or right, to prolong the time limited by law without the consent of the electors, or *people*, who sent them to parliament, and whose representatives they are; and I do say, and do insist upon it, that whenever parliaments do take upon themselves to prolong the time of their duration, such prolongation is an *infringement* of the liberty of the electors in a most essential part, and tends to destroy that freedom which they were chosen to defend. For liberty never was, nor ever will be, preserved, unless those who have the powers of the people delegated to them be frequently removed. It was by the frequent rotation and change of magistracy in all countries of the world, that freedom and independency hath been preserved.—It is upon this principle we find the people of *England* at all times crying out for *frequent* parliaments. And I am sure if ever frequent parliaments were necessary, they are essentially so in the present times<sup>a</sup>.'

In the year 1759, it was moved, that leave be given to bring in a bill for shortening the term and dura-

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<sup>a</sup> *Alm. Deb. Com.* IV. 357.

duration of parliament \*. The motion was rejected, because it was a time of war. A frivolous reason. All times are proper for doing what is proper. If a nation is at peace, establish that peace by redressing grievances. If the times are troublesome, nothing will contribute more to quiet them, than correcting abuses. 'It must be granted' (says a member of the commons on that occasion) 'that bribery and corruption in elections must always be the necessary consequences of long parliaments, and that if bribery and corruption in elections be not put an end to, they will put an end to our constitution, and establish in this nation the very worst sort of government that was ever in any country established. For gentlemen will soon find out, if they have not found it out already, that it can signify nothing to stand candidates for members of parliament in opposition to the ministers for the time being; because, tho' a few of them by their popularity, their hospitality, and their great expence at the time of the elections, may get themselves chosen, yet the ministers, by bribery and corruption, will always procure a majority of their friends to be elected, or at least returned, for the next ensuing parliament, so that no man, who sets up upon a truly patriotic scheme, can thereby propose to do his country any real service. And when this comes to be the general opinion, no man, who is governed singly by a sincere love for his country, will ever think of standing a candidate at any election. On the contrary, such men will always avoid being chosen, that they may not expose themselves to the resentment of the court, without being

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‘ being thereby able to serve their country. Contested  
‘ elections may sometimes happen; but it will never be  
‘ about who shall *serve*, but about who shall *sell*, their  
‘ country. Consequently it is evident, that bribery  
‘ and corruption at *elections* must at last bring on  
‘ bribery and corruption in the *house*. Can we expect  
‘ that a corrupt parliament will ever refuse to grant  
‘ the crown what number of standing *forces*, or what  
‘ public *revenue*, the ministers for the time being may  
‘ please to insist on? Thus we shall at last be brought  
‘ under that very form of government which was  
‘ established at *Rome* under their first emperors, that  
‘ is to say, an absolute monarchy supported by a cor-  
‘ rupt parliament and a mercenary army; and the  
‘ history of the *Roman* empire, from its first establish-  
‘ ment to its utter extinction, must convince us, that  
‘ it is the very worst form of government that  
‘ ever was invented; for from thence we may learn  
‘ that such monarchs as the *Roman* emperors may  
‘ sacrifice the public interest to their private passions  
‘ more openly, and may commit more whimsical cru-  
‘ elties under the form of law, than any arbitrary  
‘ monarch dare venture upon; and that such a par-  
‘ liament will always be more factious under a good  
‘ prince than under a wicked and tyrannical one;  
‘ because the former will disdain to sacrifice the pub-  
‘ lic service solely to parliamentary merit, or to squan-  
‘ der the public money in bribing the electors or the  
‘ members, both which the latter will always do with-  
‘ out measure or reserve. Such a form of government  
‘ must necessarily be the most oppressive upon the  
‘ poor, the most inconsistent with trade and com-  
‘ merce, and of the most pernicious consequence to  
‘ the religion, morals, and courage of the people.

‘ I say

‘ I say first, that such a form of government must be  
‘ the most oppressive upon the *poor*, because taxes  
‘ must be imposed for the support of the government;  
‘ and as the rich must have always a great influence  
‘ in parliament, they will in the methods of taxa-  
‘ tion take as much care as they can of themselves.  
‘ Therefore they will chuse to supply the public reve-  
‘ nue by taxes upon the *necessaries* and conveniences  
‘ of life, because to every such tax a poor man, who  
‘ lives comfortably by his labour, pays as much as  
‘ the richest man in the kingdom. And such taxes  
‘ the ministers of the crown will always be most fond  
‘ of, because of the multitude of *officers* that must be  
‘ employed in the collection. In the next place I  
‘ say that such a form of government must be the most  
‘ inconsistent with *trade* and commerce, which must  
‘ be evident from what I have just mentioned; for  
‘ taxes upon the necessaries and conveniences of life  
‘ must raise the price of labour. This must raise the  
‘ price of every sort of manufacture; and this must  
‘ diminish, if not totally prevent, their sale at any  
‘ *foreign* market. And, lastly, I say that such a form  
‘ of government must be of the most pernicious con-  
‘ sequence to the religion, morals, and courage of  
‘ the people. For as to the religion and *morals* of the  
‘ people, it is evident the more profligate the people  
‘ generally are as to every principle of religion, mo-  
‘ rality, or politics; bribery and corruption will,  
‘ both in parliament and at elections, have the greater  
‘ and the more certain effect. In such a form of  
‘ government therefore the governing powers will take  
‘ every method they can contrive for subduing and  
‘ rooting out of the human mind every passion, every  
‘ affection, but the desire of sensual pleasure and its  
‘ constant

constant attendant, a boundless love of money. In all assemblies the members will harangue and vote not for the sake of gaining esteem or of serving their country; but for the sake of raising their price; in the church the clergy will study and preach, not for the sake of religion, but of getting better benefices. At the bar, the lawyers will plead not for the sake of justice, but of increasing the number or the value of their fees; and in the wars, either by land or sea, the soldiers will fight not for the sake of glory or the honour of their country, but of plunder or prizes. Thus the love of money will become the sole governing principle among the people; and whilst the government can, by taxes or otherwise, get money enough to answer this popular passion of its own creating, it will continue absolute and undisturbed; but the moment it ceases to be able to do so, faction will ensue in their assemblies, and mutiny in their fleets and armies. Then as to the *courage* of the people, in such a form of government, it is certain, that the governing powers will take every possible method to render the people in general cowardly, undisciplined and unarmed; because the more they are so, the more easily they may be overawed by a mercenary standing army, the more impossible it will be for any great and antient family to defend themselves by an insurrection of the people in their favour against the most unjust and cruel oppression. Even as to those of the standing army, courage, as well as every other sort of virtuous merit, will be neglected, or at least not duly rewarded; because all public rewards will, and indeed must, be applied by the governing powers towards gaining and securing

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\* ing those who are rich enough to be assisting to the  
\* government in bribing and corrupting the people at  
\* elections, and base enough to vote constantly in  
\* parliament as directed by the ministers for the time  
\* being.\*

April 26, 1771, Mr. Sawbridge made a motion for leave to bring in a bill to shorten the duration of parliaments. He shewed, that this branch of the constitution had been established by our *Saxon* ancestors, at which time they had only been *annual*; that they were set aside 140 years by the *Normans*; that on their revival they had continued of short duration (mostly annual) till the reign of *Hen. VIII.* whose tyranny was never complete till established by that long parliament; that the next long parliament was that commonly so called of 1641. The pensionary parliament in the reign of *Cha. II.* was productive of the worst consequences to the constitution; to remedy which the triennial bill was passed, forbidding parliament to sit more than three years. This was overturned by that breach into the constitution in the reign of *Geo. I.* the passing of the *septennial* bill. Though perhaps the particular necessities of the times might render such an act at that day useful, (a rebellion just crushed, and a pretender to the throne, making it improper to call the people together at that time) yet that necessity was now at an end, none of those dangers now hanging over us. That the length of parliaments gave up that power which the constituents ought to have over their representatives, viz. of frequent examination into their conduct, and rejection of them if they thought them unworthy. That long parliaments gave an opportunity to an intimacy between the *ministers* and the *members*, always dangerous and destructive to the constitution; that in shorten-

shortening the duration of parliaments he should incline to *annual*, as subject to fewer objections, in his opinion, than triennial, but that must be the subject of future debates. Mess. *Townsend, Dempster, Turner, Barre, &c.* supported this measure: they frequently called on *administration* to shew any reasons why a bill should not be brought in. But to the amazement of most members, not one word was uttered by them; the most contemptuous silence was observed. On this great national question the short appeal was to the numbers at the command of the minister, and the only declared *reasons* were 105 to 54<sup>a</sup>.

Mr. *Sawbridge, A. D. 1773*, moved the house of commons again for shortening parliament. He observed, that in the *Saxon* times, for above 500 years, the period of parliaments was short, to the great advantage of the constitution; that from the *Norman* invasion to *Hen. III.* parliaments were either discontinued, or had lost their former efficiency; that after a struggle of half a century, this valuable acquisition was recovered, and the constitution brought back to its first principles; that from thence to *Hen. VIII.* parliaments were frequent, and their happy consequences notorious; that during the reign of that arch tyrant, they were for the first time lengthened, on which the corruption of our representatives, and the bloody acts of that monster of cruelty are the best comment; that from his demise to the rump parliament, we were happily freed from the bane of *English* liberty, to which succeeded the long pension-parliament of *Ch. II.* which is too well known to need any comment; that after the revolution many  
brave

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<sup>a</sup> *Alm. Deb. Com. ix. 298.*

brave independent men endeavoured to put it out of the power of bad princes, or corrupt ministers, to undermine the constitution, while the forms of it remained, and at length prevailed so far as to obtain the triennial bill; but all those advantages were again lost, *A. D.* 1716, by the septennial bill. That he thought it was better the *revolution* had never happened, than that septennial parliaments should be fixed upon us. He expected his motion to be opposed by the enthusiastic sticklers for old customs, and by all ministerial men, &c. The *treasury* bench, as before, sat *speechless*. The question was put. Carried against the motion 133 to 45.

Mr. Oliver, in support of Mr. Sawbridge's motion, observed, among other particulars, That the king, according to the original constitution, has the *executive* power wholly in his own hands; but that *parliament* of late years has encroached upon the king's prerogative. That parliament, instead of itself governing, is appointed to be a *check* upon government, 'to watch over the king and the courts of justice, to guard the rights and privileges of the people, and in their name, and by their direction, to grant occasional national supplies for national purposes.'—That long parliaments tend naturally to make the members forget and neglect the very ends of their institution, and to consider themselves, not as mere *delegates* and *attornies* of the people, but as persons chosen to be the *absolute* governors of the country. He observed, that 'parliament,' which was appointed to watch over administration, is become itself the administration; and that for the faithful shepherds dogs

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‘ of former times, we have now, by an unnatural co-  
 ‘ pulation, a breed of *wolves* to guard the flock.’ He  
 reasons, he says, ‘ not by inference and probable con-  
 ‘ clusions; but from experience.’ He then mentions  
 a motion lately made, for inquiry into the conduct of  
 the courts of justice; which motion was *rejected*; and  
 a late demand of half a million for the civil list, which  
 was immediately *granted*, without any inquiry into the  
 causes of a deficiency, or into the application of such  
 prodigious sums. ‘ Whenever a supply is moved for,  
 ‘ (says he) however enormous the sum, it is readily  
 ‘ granted; for the administration, who *receive* the  
 ‘ money, sit upon these benches. Whenever an ef-  
 ‘ fectual inquiry into the application of money is moved  
 ‘ for, it is as readily refused; for the administration,  
 ‘ who *apply* it, sit upon these benches. The proceed-  
 ‘ ings of the courts of justice, and the application of  
 ‘ public money were formerly the great objects of par-  
 ‘ liamentary inquiry. Now parliament is only a check  
 ‘ upon hackney-coachmen, &c.’<sup>a</sup>

• A. D. 1773, the livery of *London* came to a resolu-  
 tion, which they ordered to be published, ‘ That they  
 ‘ will vote for no candidate at an election of member for  
 ‘ the city, till he has signed a solemn engagement to  
 ‘ promote, by every means in his power, either in or  
 ‘ out of the house, a perpetual act for shortening the  
 ‘ duration of parliaments.’<sup>b</sup>

At a numerous meeting of freeholders of *Middle-  
 sex*, at *Mile-End*, A. D. 1773, Resolved, That  
 ‘ it is the opinion of the freeholders of the county of  
 ‘ *Middlesex*, that a return to the antient mode of  
 ‘ representation

<sup>a</sup> WHITEHALL EVEN. POST, Jan. 30, 1773.

<sup>b</sup> See the News-papers of March 11, &c.

‘representation in short parliaments, and a bill for the exclusion of placemen and pensioners from the house of commons, is the most likely method of obtaining a redress of the various grievances under which the subjects of this kingdom labour.’

A noisy declaimer in the house of commons, on what is called the patriotic side, published a thing a few years ago, intituled, if I forget not, *Considerations on the Causes of the present Discontents*; in which he fairly declared, he did not think shortening parliaments, or excluding placemen would answer. He said the grievances were only to be remedied by I know not what public men, who were to be responsible. But most people thought this a very gross confession, that he did not mean the public advantage; but that he wanted to be one of the public responsible men<sup>b</sup>.

## CHAP. VI.

### *Of Exclusion by Rotation.*

THE shortening of parliaments *alone*, without *exclusion by rotation*, would prove only a palliation; not a *radical* cure. It would, if I may so suddenly change the metaphor, be stopping some, but not *all* the leaks. Suppose parliaments reduced to annual, might not a court candidate bribe his electors with a seventh part of what he now gives for his borough? And might not the minister bribe the

<sup>a</sup> WHITEHALL EVEN. POST, *Thursd. April 29, 1773.*

<sup>b</sup> See Mrs. Macaulay's shrewd Answer to this piece.

the corrupt member's vote in the house with a seventh part of what he now gives? I do not forget what is observed on this by Sir *W. Wyndham*, in his speech above quoted, p. 148. viz. "That a seventh part of a sum would make so poor a figure, that it would hardly prove a temptation. That though an elector might think it worth while to be damned for 20 or 21 guineas, he might grudge to hazard his soul for the scurvy price of three, as he might die before next election; and that a member, who might be expected to sell himself to the devil and the minister for a pension of 700 *l.* a year, would despise a single hundred." Allowing all this its due weight, it is still true, that a member chosen annually for seven years together, has at the end of the seven years sat *as long* in the house as if he had been chosen for seven years at *once*; and how far rogues might have an understanding between themselves, so as to elude this salutary regulation, an honest man cannot guess. It is a common electioneering trick in our times, for the candidate to *lend* the electors small sums upon their notes of hand; those notes understood to be void if the elector votes aright. Might not the same game be played between the elector and the candidate, and between the member and the minister, if the period of parliament were reduced to annual? This could certainly *not be*, if it were certain, that the very next session *two thirds* of the members must be *excluded* by rotation; because whatever was by the corrupt set voted, might be unvoted the very next session, and then—*Omnis labor effusus*; the money would be all thrown away; the prospect of which would effectually *prevent* the minister's hazarding it. Besides, it would be impossible to find a sufficient *number* of places. As the period of parliament

ment is at present, if the minister can, by all his corrupt arts, aided by the hopes and fears of members, influence 255 of the house of commons, he is secure for seven years. But if two thirds of the house were to be changed every year, he must find means for attaching to his party *seven* times that number, or 1785, in every seven years, which would considerably clog the progress of court-influence in parliament. I mention two thirds of the house, and not the whole, because it is pretended by the court-party, that it is necessary to keep in the house some of the great officers of the state, and that a whole house of unexperienced members would be at a loss about the forms, &c. As the shameful *injustice* done by long parliaments to gentlemen, who have a *right* to be in authority some part of their lives, is a strong argument against their continuance; so it is to be remembered, that without exclusion by rotation, the mere shortening of parliaments even to annual would not redress *this grievance*. If the majority of the house be not changed every other year, the same men may be re-elected for 20 years together; and if a place-bill should be passed, tricks may be played by riding or splitting of places, unless a rotation bill is likewise passed. The city of *London*, or county of *York*, cannot be bribed, but their members may. Therefore there is no security without exclusion by rotation. But with that regulation and the others, bribery might easily be rendered *impracticable*.

*Harrington* proposes, that every domestic officer, magistrate, representative, &c. be excluded from his place of power and trust for a term equal to that of his employment<sup>a</sup>, and that a third part of the house of commons

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<sup>a</sup> OCEANA, 537.

mons be chosen annually; and a third part, *viz.* those who have sat full three years, give place to the newly elected. Such a rotation would give all persons of consequence their turns in the government.

## CHAP. VII.

### *Of electing by Ballot.*

THE electing of members by ballot would likewise be a check on court-influence in parliament. There ought to be no voting *à la voix*, where balloting would better prevent influence, caballing, animosity, or resentment. Therefore all elections for members of parliament ought, as things are now, to be by ballot. Courts or directors, members of the commons in their house, and all those, who are liable to be called to *account* for their transactions (which peers, electors, jurymen, &c. are not) ought to vote with an *audible* voice.

But let it be observed here, that making parliamentary representation *adequate* would supersede the necessity of balloting at elections. For court-influence, and whatever else could bias *electors*, would be then utterly cut up by the roots, when many thousands of votes were necessary to send in the members for any one county, comprehending its towns. To set about bribing 401 electors in order to gain one member, or 202,104 electors to secure a *majority* in the house, a minister must be lord of the mines of *Potosi*.

It

It is thought by some authors, that the *Athenians* chose their 9 archons by ballot for 160 years<sup>a</sup>. Their senate of 400, and the prytanes were chosen by lot<sup>b</sup>.

Balloting was used in some cases at *Rome*. And when, through the prevalence of corruption, that free manner of voting went into desuetude, it was restored by the *lex Papiria* and the *lex Gabinia*.

The *Roman* senate did not vote by ballot; but the people did. *Salust* (if he be the author of the *FRAGM. TO CÆSAR*) and *Cicero*, in *CORNEL.* express their wish, that balloting were used in the senate.

Elections of magistrates being troublesome, causing heats, and dissensions among the people of *Florence*, it was agreed that the electors, who consisted of the president and members of the college [should have been *all* people of *property*] should write on tickets, and inclose in a chest, the names of such citizens, as they thought fit to be in the magistracy; and that when the day of election came, a set of those names should be taken out, after shaking the chest, and the names first drawn should be the magistrates elect, and to continue three years and a half<sup>c</sup>. This method was kept up at *Florence*, while the republican government continued. *Aristin* disapproves it, but we know not why.

At *Venice* all elections are made by ballot, and all voting in the great council, the college, the senate, and all the courts of judicature is done by ballot, without any mistake, or any sort of confusion, or disturbance,

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<sup>a</sup> *Ubb. Emm. DE REP. ATH. l. 24.* <sup>b</sup> *Ibid. 36, 37.*

<sup>c</sup> *MOD. UNIV. HIST. xxxvi. 77.*

turbance, which prevents bribery, faction, animosities, and all bad consequences<sup>a</sup>.

A motion made in the house of commons, *A. D.* 1707, that all election questions be decided by balloting, was rejected. To be heard and determined at the bar of the house<sup>b</sup>.

It was again proposed, *A. D.* 1708, that questions concerning elections should (if either competitor desired) be decided by ballot. Carried in the negative. I suppose they thought balloting dangerous, when there were so many jacobites<sup>c</sup>.

A bill for electing the *Scotch* peers by ballot was moved in the house of peers, *A. D.* 1734. Miscarried. Many lords protested, because balloting is the freest manner of electing, and the most likely to defeat ministerial influence, which was to be feared in a matter of such consequence.

‘The method of voting by ballot, say they, appears to us infinitely preferable on many accounts; for as it is well known, there are several alliances among that body of nobility, many of the peers may be put under great difficulties, their *alliances* drawing them one way, and their *opinion* and inclination another way. It is also possible, that by pensions from the crown, or by civil or military preferments, some of them may lie under obligations to a court, and be reduced to the hard necessity (under the power of an arbitrary minister) either of *losing* their *employments*, or of voting against their nearest relations, and their own opinion also. We apprehend that no election can be called perfectly free, where any number of the electors are under any influence

<sup>a</sup> *Cole's MEM.* p. 16.

<sup>b</sup> *DEB. COM.* IV. 103.

<sup>c</sup> *Find. CONTIN.* II. 108.

‘influence whatsoever, by which they may be biased  
‘in the freedom of their choice’.

Judge *Blackstone* is against voting by ballot in the house of commons, ‘because the conduct of every  
‘member is subject to the future censure of his constituents, and therefore should be openly submitted to  
‘their inspection’<sup>b</sup>. Upon what principle is it then, that the house, from time to time, orders the galleries to be cleared? Is it that their constituents may not see, nor know, nor consequently be able to censure their conduct in the house? Of which more fully in the sequel.

*Harrington* is for balloting on all occasions<sup>c</sup>.

Balloting is used in many cases, as in the elections in the India-house, the Royal society, &c. but it is not practised where, above all, it ought (while things continue on their present foot) to be used, viz. in the election of members of parliament.

‘It is customary in the borough of *Lymington*  
‘in *Hampshire*, to elect by ballot’ [the manner of which the writer there describes.] ‘This method I know  
‘to be of great advantage where it is made use of.  
‘It prevents animosity and distaste, and very much  
‘assists that freedom, which ought to be in elections.  
‘No man, in this way, need fear the disobliging of  
‘his landlord, customer, or benefactor’<sup>d</sup>.

<sup>a</sup> DEB. LORDS, IV. 276. <sup>b</sup> COMM. I. 181.

<sup>c</sup> See OCHANA, p. 83, & seq. 537.

<sup>d</sup> STATE TRACTS, time of K. William, n. 161.

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## BOOK IV.

### Effects of the above Irregularities.

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#### CHAP. I.

*Members of Parliament no longer hold themselves responsible to the People.*

**F**ROM the inadequate state of representation in parliament, and the enormous length of their period, have arisen several most fatal consequences. The first I shall mention is; That members, being generally elected by *hundreds* of persons, possessed of little property, and less knowledge of the interest of their country, and impowered as law-makers for *seven years*, have given up all thought of being *accountable* to any set of men upon earth for their proceedings in parliament. And it must be allowed, that on the present ludicrous foot on which representation stands, it would be *disgracing* a gentleman beyond sufferance, to call him to the bar of a set of poor unlettered *Carnish* burghers, and to expect him to answer the *stupid* questions they would put to him concerning his conduct in the house, of which they cannot be supposed competent judges; any more than they are of the *qualifications* of a legislator, which shews the absurdity of their having the power of *making* legislators, not for themselves only, but for the nation in general. Were parliamentary representation upon its proper foot, no member would be sent into the house by a puny burgh;  
but

but *all* would be *county-members*, and every member would have, to his admission as a law-maker, the sanction of the majority of the inhabitants of a county, comprehending the cities and towns in it. From such a *respectable* body as this, it would be an honour to gentlemen to receive instructions; and to be responsible to them, would not be beneath the dignity of any person whatever.

It is notorious, that the right of constituents to instruct their members, and the consequent duty of members to obey instructions, is in our times questioned by many, and by many given up. Yet it is certain, first, that no *harm* could come from the members of parliament being obliged to wait for instructions from their constituents, supposing the constituents what they ought to be, because *legislation* is, the least of any thing, a matter of *haste*; and the executive is not in the parliament.

There seems to be a palpable inconsistency in the country doctrine, That the people are wholly *unqualified* for judging of political matters, and that therefore their sense in petitions, remonstrances, and instructions, is not to be regarded. If so, why is the choice of members of parliament left to the *people*? Why should not the *ministry* nominate them at once? If the people are incapable of judging of politics, they are incapable of judging of the qualifications of *members*. But to set this absurdity in its full light, it is to be observed, that the courtiers, at the same time they argue for the incapacity of the people in general, insist that the election of legislators is best trusted to the *most* incapable part of the people. Similar to which ingenious reasoning is their plea, when they tell us, 'The people are in fault, why do they

'let themselves be bribed by the court?' So every town-rake cries out against the frailty of women (himself the cause of the failure of female virtue.) And because the people are *liable* to be corrupted, our courtiers insist, that the election of law-makers is best in the hands of that part of the people who are *most liable* to be corrupted. Into such absurdities do men plunge themselves, when they undertake the defence of what their understandings and consciences revolt against!

In the remarkable answer of lord *Percival*, member for *Westminster*, to instructions sent him by his constituents\*, we have that gentleman's notion of the duty of representatives in respect of instructions. And he speaks the sense of too many.

'Gentlemen, you are welcome upon all occasions, and I look upon this application as a fresh instance of your friendship.—As I never concealed my principles from you, so I will never depart from them. The only motives that direct my conduct are the preservation of the constitution of my country, the security of the present royal family upon the throne, and the common liberty of *Europe*.—These views I shall always think inseparable.—In the prosecution of them, my judgment sometimes may, my heart shall never fail me.—I remember on my part, that to your independent voice, I owe my seat in parliament:—on yours, you will not forget that I ought to be independent there.' [True, my good lord, you ought to be independent on a *court*; but not on 10,000 people of property who sent you to parliament on purpose to do *their* business.] 'When I differ from your sentiments, I shall do it with great reluctance,

“tance, and then only when I am convinced, that  
 “your *true interest* must extort it from me.” [Of  
 which true interest your lordship, of your great  
*modesty*, holds yourself a better judge than the many  
 thousands who employ you as their *agent*. How  
 would your good lordship take such language from  
 your steward?] “In such a case the crime is equal  
 “to flatter popularity,” [to do your constituents’ busi-  
 ness, as *they* chuse, is to flatter popularity?] “or to  
 “court power. It becomes me to respect both; but  
 “it is my duty to follow neither beyond those limits,  
 “which the circumstances of time, prudence, neces-  
 “sity, and the public safety can alone determine.”  
 So the *French* king, or the grand *Turk*, might be ex-  
 pected to silence the petitions of their subjects, by  
 telling them, that the prince is the only judge of the  
 circumstances, of time, prudence, and necessity.

Some argue, that members of parliament are not  
 obliged to obey instructions of their constituents, be-  
 cause the constituents do not *hear* the *debates*, and there-  
 fore cannot be supposed *judges* of the matter to be  
 voted. But the lords may send votes by proxy, *tho’*  
*they do not hear the debates*. The very truth is, that  
 the members have no opportunity of being at all better  
 judges of most matters to be voted in parliament than  
 men of understanding and reading, who never sat in  
 the house. So that the hearing of the debates gives no  
 such mighty advantage to the members above the con-  
 stituents. Besides, there is nothing to hinder a mem-  
 ber’s informing his constituents of the reasons (occur-  
 ring in the course of the debate) why he intends to  
 vote so, or so. If they allow them, all is well. If  
 he votes *contrary* to their direction, though he *means*  
 their real interest, he only shews himself a wrong-  
 headed agent, who will act according to his own opi-  
 nion

nion in spite of his masters; and ought, besides being immediately *turned out* of his office, to be *answerable* for all damages.

The excellent *Davenant*, 'tis true, lays no great stress on responsibility in members of parliament. But this is only because in his times they had few examples of parliaments so corrupted as to come to have an interest different from that of their constituents. But in our degenerate times, when we know, that parliaments may be effectually drawn away from consulting the interest of their representatives, it is strange that judge *Blackstone* (who writes what I have quoted from him above, p. 179) should write as follows:

A member of parliament 'is not bound, like a deputy in the United Provinces, to consult with, or take the advice of his constituents upon any particular point, unless he himself thinks it proper, or prudent so to do'.

Suppose then a majority of the house of commons, corrupted by a villainous court, should propose to lay an exorbitant tax upon the people. Suppose the majority of the constituents, and people of *England*, should instruct the majority of the members against this tax, could the act establishing this tax, passed in direct *opposition* to the mind of the *people of England*, (which judge *Blackstone's* doctrine allows) be said to be, in any sense, *constitutional*, or parliamentary, or in any degree more tolerable to a free people, than if the *king in council* had pretended to impose the tax? If the votes of the electors be the whole and sole foundation of the authority, the members have to sit, and to make laws, can it be conceived, that the electors gave this authority on purpose to plunder themselves?

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If

If the members of the house of commons are not obliged to regard the instructions of their constituents; the people of this country chuse a set of despots every seven years, and are as perfect slaves as the *Turks*, excepting the few months of a general election. And it is the trumping up of this doctrine, that gave *Voltaire* the hint to write, that the *English* are only free once in seven years, and then they have not the sense to make the proper use of their freedom. *Pudet hæc opprobria, &c.* That a *Frenchman* should have it in his power to turn *English* liberty thus to ridicule, is mortifying enough; but that an *English* judge should support his contempt of our liberty, is still more humiliating.

But how could the spirit of liberty be expected to breathe in the works of a gentleman, who speaking of the just vengeance, which a frantic tyrant, the destroyer of liberty, and butcher of his subjects, brought upon himself, uses such expressions as— the infamous ‘and unparalleled trial of king *Charles I.*’ And again, ‘the fatal catastrophe of that pious and unfortunate prince;’ and who apologizes for his rapacious proceedings, by telling us, he gave up the right to tonnage and poundage (after keeping it for fifteen years, in spite of the continual remonstrances of parliament) when he found he could keep it no longer; which the judge calls ‘giving the nation ample satisfaction.’ Let the reader peruse the incomparable Mrs. *Macaulay’s* history of his horrid reign, or indeed any, even that of his professed apologist *Clarendon*, and determine whether exempting him from the guilt of tyranny, it is possible to fix it on any prince that ever disgraced a throne,

\* COMM. I. 191.

\* Ibid. p. 210.

\* Ibid. 316.

a throne, or filled a kingdom with confusion and bloodshed. As a friend to human nature, I cannot help declaring my opinion, that had he been guilty of no crime besides his offering the *Scotch* army a bribe of four counties, and the plunder of *London*, to invade *England*<sup>a</sup>, or had he been guilty of no instance of tyranny besides his fighting and slaughtering his subjects about his over-strained prerogative——had he had as many heads as the *Lernean hydra*, he ought to have lost them all. Nor can I, in reading judge *Blackstone's* Commentaries, help lamenting, that a writer, whose admirable work will be read as long as *England*, its laws, and language remain, should be so sparingly tinctured with the true and generous principles of liberty, on the support and prevalency of which, the glory of the *British* empire depends.

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## CHAP. II.

### *The Denial of Responsibility is a novel Doctrine.*

THE doctrine so much preached of late, by our speech-makers and courtly writers, that members of parliament are not obliged to regard the instructions of their constituents, is a mere innovation. In former times their receiving wages supposed an obligation to do the business of those who paid them, and that they were to do it in the manner their employers chose it should be done. And their constant language in the house is, ‘We dare not grant any more subsidies. Who sent us hither? Whose business are we doing? How shall we answer this to the people?’

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<sup>a</sup> See *Ludlow's* MEM.

‘ people? What will the *people of England* say to this? &c.’<sup>a</sup>

‘ The very nature of the house of commons is changed,’ (says the duke of *Buckingham* in the house of peers, *A. D.* 1677.) ‘ They do not now think they are an assembly of men, that are to return to their own homes, and become *private* men again (as by the laws of the land and constitution of parliaments, they ought to be) but look upon themselves as a *standing* senate, as men picked out to be legislators for the rest of their *lives*.’<sup>b</sup>

Our ancestors shewed themselves to be *constituents*, by fining, imprisoning, and incapacitating their members, when they acted contrary to their intention. Absentees were fined 20 *l.* a large sum in those days. Our members are our *masters*, and insist on a dictatorial independency on us for 7 years, and to give no account of their conduct at the 7 years end, nor have we any power over them, but that of not re-electing them to a new parliament, if they have betrayed us in the last. Nay, the majority of the members *command* their own election, and sit in parliament, as the peers, for life. And yet we are a *free* people. Well may the neighbouring nations admire so *mysterious* a system.

The *abbé Roynal*<sup>c</sup> thinks, the antient custom of the king’s giving out, in the summonses to parliament, the business, for which it was to meet, was very useful, because the constituents could then instruct their members how to vote; whereas now, says he, ‘ the people are obliged to give their representatives an *unlimited* power, which they use as they think proper.’

<sup>a</sup> PARL. HIST. pass.

<sup>b</sup> DEB. LORDS, I. 189.

<sup>c</sup> PARL. HIST. I. 396. ix. 298.

<sup>d</sup> P. 275.

‘proper.’ The knights hesitated about granting *Edw.* III. supplies, till they had the consent of their constituents. The barons agreed. There is no mention of the burgesses. They desired, that there might be a new parliament summoned, which might come prepared with authority from their constituents. The commons did not presume to grant *Edw.* III. any tax, till they consulted their constituents. The commons, in the time of *Rich.* II. being desired to grant a subsidy, soon after *Tyler’s* insurrection, answered, that by reason of the evil beats and rancour of the people throughout the whole realm, they neither durst, nor would grant any manner of tallage. Here the sense of the responsibility to the people operated properly. *Elfyng* says, ‘When the commons gave their answer touching the subsidy demanded for the wars, they desired leave to return into the country to confer with their neighbours, promising their endeavours for the same at next parliament.’

Some of our principal law-books tell us, that in ancient times, this house has often refused to agree to propositions made by the court for this reason only, That they could not, till they were home, and consulted with their constituents. The words of *Mr. Plummer’s* speech on the motion for repealing the septennial act, *M.D.C. 1734* are not to be forgotten.

‘We shall have little thanks for our labour, when we go home,’ said *Whitworth*, in the debate in parliament about a saving clause in the petition of right. In those days, the members considered what thanks they were likely to have from their constituents.

In

<sup>a</sup> *Hume’s Hist.* ii. 176.

<sup>b</sup> *PARL. HIST.* iii. 247.

<sup>c</sup> *PARL. HIST.* i. 390.

<sup>d</sup> *P.* 73.

<sup>e</sup> *DEB. COM.* viii. 175.

<sup>f</sup> *PARL. HIST.* viii. 129.

In ours, they consider what thanks they are likely to have from the *treasury*.

It was enacted 1 *Hm. V.* at the petition of the commons, that none, but *residents* in the places they represented, should be chosen knights, citizens or burgesses \*. They had not then invented the refinements of our times, that the members are representatives for the whole kingdom, and from the moment of their election, are alike independent on their particular constituents, and on the whole body of electors through the kingdom.

[*H. B.* (supposed *Beskarwin*) in his speech on rejection of the exclusion-bill, says, "That those who sent us here, may see, we have done what we can, let us make such votes as may be serviceable to our country."

I have heard, (says Sir *R. Chyten*) in the debate on the exclusion-bill, *At D. 1681*)<sup>b</sup> that it has been an antient usage, that members have consulted their cities, boroughs, and counties in any thing of weight, as well as giving money, before they resolved it. The practice was good, and I wish it was continued. We can discharge our trust no better than in ascertaining the direction of those who sent us hither. What the people choose is right, because they choose it. He himself had been instructed by the city of *London* to promote the exclusion-bill. So said lord *Ruffell*.

"Our constituents," (says Sir *Edw. Daring*, *At D. 1641*)<sup>c</sup> sent us hither as their *trustees* to make and unmake laws. They did not send us to rule them by arbitrary, disputable, and revocable ordinances (meaning ordinances of the commons.)

The

\* *Elings*, 75.

<sup>b</sup> *Ibid.* 11. 115.

<sup>c</sup> *Deb. Com.* 11. 80.

<sup>d</sup> *Rep.* 11. 383.

The style of former times was, 'The commons desired certain lords to confer with them about their charge'. In those days the commons thought they had a *charge*, for which they were *answerable*.

Our constant practice (since *A. D.* 1681.) of printing the votes of the house of commons, is an acknowledgment of the importance of the people, and the propriety of giving them satisfaction. The occasion of first publishing the votes was the exclusion-bill.

The commons in the time of *Ch. I.* directed the judges to inform the people in all the counties they should come into in their circuits, that they (the commons) had abolished, or regulated all the oppressive courts, &c. This shews, that the commons of those times thought themselves *responsible*.

Lord Digby, member for *Dorset*, and Sir J. Colpepper, from *Kent*, inform the house, *A. D.* 1640, that they had in charge seven articles of grievances, to which they add some remarks of their own. Do our members make conscience of carrying to the house the complaints of their constituents?

The following phrases in *Cromwel's* summonses to sheriffs for parliament elections, shew, that responsibility was in those days thought the duty of members.—'So that the said knights severally may have full and sufficient power for themselves, and the people of that county, to do and consent unto those things which then and there by common consent of the said parliament shall be ordered,' &c.

By the strain of the *Remonstrance of the Commons of England to the house of commons*, in the republican times,

<sup>a</sup> *Brady*, III. 356, et pass.

<sup>b</sup> *Rap.* II. 722.

<sup>c</sup> *PARL. HIST.* XIV. 474.

<sup>d</sup> *Ibid.* IX. 125.

<sup>e</sup> *Ibid.* XX. 292.

<sup>f</sup> *Soumer's TRACTS*, VI. 256.

times, we see how this matter appeared to our ancestors of last century.

• We must desire you to call to your remembrance,  
• that *we* are still the *body* of the commons of England,  
• *you* but the *representatives*; that we have not so *delegated*  
• the power to you, as to make you the *governors*  
• of us and our estates. You are in truth but our  
• *procurators* to speak for us in the great council. That  
• of right we ought to have *access* to those, whom we  
• have thus chosen, and to the *house*, as there shall be  
• cause to impart our *desires* to you, and you ought not  
• to *refuse* us. That by involving *our* votes in *yours*,  
• we had no purpose to make you perpetual *dictators*."

Members of parliament, says the excellent Sidney<sup>a</sup>, do not act by a power derived from *kings*, but from those who *choose* them. And those, who give power, do not give an unreserved power. Members of parliament are therefore *accountable* to their *constituents*. It is true, the constituents do not call them to an account, otherwise than by not electing them again, if they have disapproved of their conduct. [This proves in fact a very inadequate punishment, because the right of election comes so *seldom* into the hands of the people, and because (in all, but the present incorrupt times) by far the greatest part of the members have been *imposed* upon their constituents by *power* or by *bribery*.] Many members, he says afterwards<sup>b</sup>, in all ages, and sometimes the whole body of the commons, have *refused* to vote, till they *consulted* those who *sent* them. The houses have been often adjourned, to give them time to do this; and if this were done more frequently, or if towns, cities, and counties, had on some occasions, given instructions

to

<sup>a</sup> Disc. Gov. 423.

<sup>b</sup> Ibid. 424.

‘to their deputies, matters would probably have gone better in parliament than they have often done.’

That stern old patriot, in his XLIVth sect. <sup>a</sup> overthrows the doctrine of absolute power delegated to the members of the house of commons by their constituents. He considers members of parliament as the *servants* of the public. ‘I take, says he, what servant I please, and when I have taken him, I must, according to this doctrine, suffer him to do what he pleases. But from whence should this necessity arise? Why may I not take one to be my groom, another to be my cook, and keep them both to the offices, for which I took them? And if I am free, in my private capacity, to regulate my particular affairs according to my own discretion, and to allot to each servant his proper work, why have not I, with my associates the freemen of *England*, the like liberty of directing and *limiting* the powers of the servants we employ in our public affairs?’

*Milton* and *Locke* bring very substantial arguments for calling even *kings*, with all their sacred majesty, their *jure divino*, and their impeccability (kings can do no wrong) to account, if they govern in any manner inconsistent with the good of the *people*. How much more lords, or *commons*, who have never even challenged to *themselves* any divine attributes? *Jam. I.* owned himself to be the great *servant* of the state.

‘Who, says *Locke*, shall be judge, whether his trustee, or his deputy’ [are not members of the house of commons *trustees* and *deputies* in the strictest sense of the word?] ‘acts well, and according to the trust reposed in him, but he, who deposes him,

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<sup>a</sup> Disc. Gov. 450.

‘and

‘and must, by having deputed him, have still power  
‘to discard him, when he fails in his trust? If this  
‘be reason in particular cases of private men, why  
‘should it be otherwise in cases of the greatest moment,  
‘where the welfare of millions is concerned?’

The qualifications of a member of parliament, according to the author of an excellent tract published in the beginning of this century, intituled, *REASONS FOR ANNUAL PARLIAMENTS*, are sense, courage, and integrity. By sense, he means chiefly knowledge of the interests of England (though classical learning and fluency in haranguing are in our times essentially necessary) commerce, manufactures, liberty, securities and violations of the people, and redress, or resources for war and peace, and connections with other states, balance of power, &c. Courage against the encroachments of a court, against solicitations, places, preferments, threats, cabals, &c. Integrity not merely to the whigs, or to the minority, but to the nation. No man ought to be *chosen*, that will not receive *instruction*. There are no counties and few towns that do not understand the interest of their country enough to give general instructions. ‘You have a right to instruct your members.’ It was the custom formerly to instruct all the members, and the nature of deputation shows that the custom was well grounded. *No B.* This was written 1702, when the people were not so knowing, and consequently not so well qualified for instructing, as now. He insists, that parliament be instructed to promote a militia, and to encourage the use of firelocks among the populace, to increase the navy, and reduce our wars to naval wholly.

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‘I have

‘ I have met, says queen *Anne*, with so many expressions of joy and satisfaction in all the counties through which I have had occasion to pass, that I cannot but look upon them, as true measures of the duty and affection of all my subjects<sup>a</sup>.’ Queen *Anne* thought the sense of the people might be collected *otherwise* than from *parliament*. The commons answered, ‘ It is great condescension in your majesty to take notice in so public a manner of the expressions of joy and satisfaction,’ &c.<sup>b</sup> Thus we spoil our kings and queens. It was not the *least condescension*. It is the *duty* of every sovereign to pay the most profound the most *sacred* attention to the sense of the people, for whose benefit *alone* he is endowed with power.

The collectors of the debates of the commons hold it to be scarce a *disputable* point, ‘ Whether the representatives of a people are accountable to their constituents, or whether it ought to be deemed an offence to lay the proceedings of our representatives before those whom they represent<sup>c</sup>.’

‘ I hope, your indulgence to an old *servant* will pardon this omission ;’ says Mr. *Cooke*, member for *Middlesex*, in his address to the electors, *March* 26, 1768. What sort of a *servant* must he be, who is not *responsible* to his master ?

‘ If parliament’ (says Sir *J. Barnard* in the debate on the convention, *A. D.* 1739.) ‘ should begin to refuse giving *satisfaction* to the people, the people will begin to refuse putting any confidence in parliaments; and if this should ever come to be the case, they [parliaments] not only may, but they ought to be *laid aside*.’ I do not know that the character

<sup>a</sup> DEB. COM. III. 203.

<sup>b</sup> Ibid. 204.

<sup>c</sup> Ibid. I. 1.

‘racter of parliament ever received a deeper stab than  
‘it did at the seeming approbation of the convention  
‘in last sessions of parliament; and if we should in  
‘this so far screen the contrivers of that convention as  
‘to refuse to let the *people* know whether they were  
‘to blame or not; I say, if we should do this now,  
‘that the chief argument advanced last year in favour  
‘of that convention appears to have been without founda-  
‘tion, it will, I fear, be a mortal blow.’

We find in our histories nothing more frequent than instructions from constituent bodies to their representatives in parliament, which shews, that the *people* (whose opinion, indeed, in modern times, is little regarded by their governors, whereas it ought to be followed *implicitly*) think they have a right to instruct, and that their representatives *ought* to regard their instructions.

The city of *London* sent instructions to her members, 33 *Ch. II.* requiring them to insist on the passing of the exclusion-bill. And Sir *Rob. Clayton* gave it as one reason in his speech on that occasion, That his duty to his electors obliged him to vote for the bill<sup>b</sup>.

‘In many places, it was given, as an instruction to  
‘members [at the election in 1681] to stick to the  
‘exclusion.’ And see the judicious instructions by the borough of *Southwark*, A. D. 1701, on the treachery of the *French king*<sup>c</sup>. Many places instructed their members, A. D. 1714, particularly *London*. ‘We  
‘desire and expect that you will enquire by whose  
‘counsel, &c. the separate peace was made.’

See

<sup>a</sup> *DEB. COM.* XI. 375.

<sup>b</sup> *Ibid.* XIV. 7.

<sup>c</sup> *BURN. HIST. OWN TIMES*, II. 136.

<sup>d</sup> *Tind. CONTIN.* I. 497.

<sup>e</sup> *Ibid.* I. 415.

See the very judicious instructions given by the citizens of *London* to their members, *A. D.* 1741, against standing armies; extension of excise laws; septennial parliaments; placemen in the house of commons; recommending strict enquiry into the expenditure of public monies; cautioning against a dishonourable peace with *Spain*, &c. The preamble runs as follows; 'We the citizens of *London* who have cheerfully elected you to *serve us* in parliament, and thereby committed to your *trust* the safety, liberty, property, and privileges of ourselves and posterity, think it our duty, as it is our *undoubted right*, to acquaint you with what we desire and *expect* from you in *discharge* of the great *trust* we repose in you, and what we take to be your *duty* as our representatives,' &c. <sup>a</sup>

There were sent up instructions from all parts, in the same year, for an effectual place and pension-bill, and for short parliaments, and against a standing army, and all needless expences, by which taxes were increased <sup>b</sup>.

In the year 1742, the lord mayor and corporation of *London* instructed their members <sup>c</sup> (on occasion of a disappointment from some pretended patriots) requiring their faithful attention to the prosecution of whatever might give hopes of redress. These instructions were followed by others to the same purpose from *Westminster*, *Bristol*, *Edinburgh*, *York*, *Worcester*, and other places.

The city of *London* instructed their representatives, *A. D.* 1769, to endeavour to prevent all attempts to the

<sup>a</sup> DEB. COM. XIII. 15.

<sup>b</sup> See the histories of the times.

<sup>c</sup> DEB. COM. XIV. 2.

the disadvantage of tryal by jury; to watch over the observance of the *Habeas Corpus* act; the application of the public money to bribery or electioneering; to oppose the dangerous doctrine of constructive treasons, the garbling of petitions, and turning them into accusations; the use of military force on pretence of keeping the peace; to oppose the indiscriminate demands of ministers on pretence of paying civil list debts; to promote an effectual place-bill; to propose laws for preventing the influence of peers in elections, and for subjecting the candidate, as well as the elector, to the bribery-oath; and to endeavour to obtain short parliaments and election by ballot, &c.

‘The instructions of your constituents’ (says a sensible writer <sup>b</sup>) ‘you should always be ready to obey. But you have inverted the maxim of the Gospel, and made the *servants* greater than their masters. You, who are only *deputies* and *factors*, have usurped a power not only superior to your *creators*, but destructive of the very rights, by which they exist as freemen, and by which you yourselves exist as representatives. In the gulf of your privilege you have swallowed up the birthright of the people, who are ultimately paramount to all the three branches of the legislature.’ [Of as much more consequence, he might have said, (allowing for difference in property) as 12 millions are more in number than 800 individuals.] ‘Had you been as tenacious of your *duty*, as of your *interest*, you would have first provided for the safety of the people’s rights, and then entered upon a discussion of your own privilege.’

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Mr.

<sup>a</sup> MAG. of 1769.

<sup>b</sup> LOND. MAG. July, 1771, p. 334.

Mr. *Beckford*, late lord mayor of *London*, seems to have had a proper notion of instructions, *viz.* That they are to be followed *implicitly*, after the member has respectfully given his constituents his opinion of them. 'Far be it from me, says he, to oppose my judgment to that of 6000 of my fellow citizens <sup>a</sup>.'

'I ever thought myself happy' (says Sir *Ellis Culliffe*, in his letter to the mayor of *Liverpool*) 'in obeying all the commands of my constituents, whether of a public or private nature;' [desiring, on account of illness, to be excused serving any longer in parliament <sup>b</sup>.]

'I cannot think it consistent with the honour and dignity of this house,' (says Mr. *Plumer* in the debate on the *Spanish* war, *A. D.* 1738.) 'to give people without doors any shadow of reason for suspecting, that the resolutions of this house are dictated by our ministers of state; for, in all our resolutions, we ought to speak our own sense, the sense of those we represent, the sense of the nation, and not the sense of ministers <sup>c</sup>.'

When king *William*, *A. D.* 1694, refused the royal assent to the famous bill for free and impartial proceedings in parliament, the commons remonstrated, and the committee proposed, among other particulars, to address the following to his majesty: 'We beg, Sir, you will be pleased to consider us as ANSWERABLE TO THOSE WE REPRESENT. And it is from your goodness we must expect arguments to soften to them in some measure the necessary hardships they are forced to undergo in this present conjuncture <sup>d</sup>.'

<sup>a</sup> LOND. MAG. 1769. p. 96.

<sup>b</sup> Ibid. 1767. p. 308.

<sup>c</sup> DEB. COM. X. 234.

<sup>d</sup> Ibid. II. 432.

## C H A P. III.

*Arguments for Responsibility of Members to the People.*

**I**N the debate upon the motion for repealing the septennial act, *A. D.* 1734, Sir *W. Wyndham* opposed Sir *W. Younge*, who had endeavoured to depreciate the necessity of responsibility.

‘The gentleman [meaning Sir *William*] said, that  
 ‘we were to have *no dependence* upon our *constituents*;  
 ‘he went further; he said it was a dangerous dependence; nay, he went further still, and said it was  
 ‘*more dangerous* than a dependence on the *crown*.  
 ‘This my worthy friend took notice of, and, with  
 ‘his usual modesty, called it a new doctrine. It is,  
 ‘Sir, not only a new doctrine, but is the most monstrous, the most slavish doctrine was ever heard; and  
 ‘such a doctrine as I hope no man will ever dare to  
 ‘support within these walls. I am persuaded, Sir,  
 ‘the learned gentleman did not mean what the words  
 ‘he happened to make use of may seem to import; for  
 ‘though the people of a county, city, or borough,  
 ‘may be misled, and may be induced to give instructions which are contrary to the true interest of their  
 ‘country, yet I hope he will allow, that in times  
 ‘past the *crown* has been *oftener* misled; and consequently we must conclude that it is more apt to be  
 ‘misled in time to come than we can suppose the *people* to be.’

Though it should be affirmed, that a member of parliament is not responsible to his *own* constituents, yet it would be strange to assert, that *all* the members may neglect the remonstrance of *all* the constituents in  
 England

*England* to the same purpose. In that case, the members could not be said to be representatives of the people of *England*, but must be considered as a set of absolute despots, acting for their own private interest. But this is inconsistent with the very idea of *election*, or of *delegated* power. And if *one* member is not responsible, neither is *another*. If *one* is responsible, *all* are. If revolution-principles are justifiable, that is, if the people may take the power out of the hands of a king, or government, when they abuse it, it follows, that the king and government are in all cases *responsible* to the people, and that a majority of the people can at any time change the government. This is not denying the *danger* and *trouble* of revolutions, nor the difficulty of determining what is the sense of the majority of the people. But if members of parliament are not obliged to regard instructions from their constituents, what is to become of a poor town, or country-place, unable to bear a tax no way grievous to other wealthier places? The house receives no *petitions* upon *money-bills*; because every place either sends a member or members of its own, or is represented by the county-members. But, if the house is neither to be informed by *petition* nor by *instruction*, how is it to be informed? This leaves an open door for the most cruel oppression.

Lord Coke says, 'It is the custom of parliament ' when any new device is moved for in parliament on ' the king's behalf for his aid, or the like,' [as a little demand of half a million to pay civil-list debts] ' that ' the commons may answer, They *dare* not agree to it ' without conference with their *countries*.' He gives an instance of this 9 *Edw. III.* which is applied by Mr. *Pulteney* in the debate on the excise-scheme, *A. D.* 1733. And Mr. *Pulteney* adds, that the abhorrence shewn by the people against that scheme, was a sufficient reason for rejecting it.

So far from questioning the responsibility of members, I should think it reasonable and proper to demand an *oath* of the members at their taking their seats, besides the usual oaths; I mean an oath of fidelity to their constituents, by which they should declare before God and men, that they come into the house by the free and uninfluenced choice of a true majority of those, who by law have the right of choice; and that they will, in all their speeches and votes, faithfully and zealously pursue their country's good, in spite of all temptation to the contrary. The most incorrupt parliament ought not to refuse giving their constituents all the security in their power. An honest man does not refuse to give his bond. The most virtuous are the most desirous of avoiding suspicion, and the most anxious about standing in a clear light before the world.

No single man, or set of men, ought to be trusted with power without account to the people, the original proprietors of power. 'There is not upon earth' (says the excellent *Gordon*) 'a nation, which having had unaccountable magistrates, has not felt them to be crying and consuming mischiefs. In truth, where they are most limited, it has been often as much as a whole people could do to restrain them to their trust, and to keep them from violence; and such frequently has been their propensity to be lawless, that nothing but a violent death could cure them of their violence. This evil has its root in human nature; men will never think they have enough, whilst they can take more; nor be content with a part, when they can seize the whole.'

The history of mankind for two or three thousand years backwards (which is as far backwards as history goes) is a sermon upon this text, Nothing more dan-  
gerous

gerous than power without responsibility. But the species resembles an individual. As the father's experience does not make the son wiser, so neither does the history of the sufferings of former generations teach the succeeding to secure themselves against the mischiefs of unaccountable power.

'When we elect persons to represent us in parliament (says a judicious writer<sup>a</sup>) we must not be supposed to depart from the smallest right which we have deposited with them. We make a lodgment, not a gift; we entrust, but part with nothing. And, were it possible, that they should attempt to destroy that constitution which we had appointed them to maintain, they can no more be held in the rank of representatives than a factor, turned pirate, can continue to be called the factor of those merchants whose goods he had plundered, and whose confidence he had betrayed. The men, whom we thus depute to parliament, are not the bare likeness or reflexion of us their constituents; they actually contain our powers and privileges, and are, as it were, the very persons of the people they represent. We are the parliament in them; we speak and act by them. We have, therefore, a right to know what they are saying and doing. And should they contradict our sense, or swerve from our interests, we have a right to remonstrate, inform, and direct them. By which means, we become the regulators of our own conduct, and the institutors of our own laws, and nothing material can be done but by our authority and consent.'

The tyranny of the *East India* governors<sup>b</sup>, who, on account of the distance of their situation from the seat of government, think themselves in a manner out of its

<sup>a</sup> LOND. MAG. Jan. 1760, p. 33.

<sup>b</sup> MOD. UNIV. HIST. x, 144.

its reach; shews how dangerous it is to trust power without responsibility.

A few years ago, the wise justices of *Westminster* gave for one night a discretionary power to the constables to apprehend and secure all street-walking women. What was the consequence? Those imperious brutes took up a number of industrious washer-women going to their business before day-light, crammed them into a place of confinement like the black hole at *Calcutta*, in which one, or more, were fairly suffocated, and found dead next morning.

See a *British* house of commons plundering the people of above half a million to pay court-debts, *A. D.* 1773, at the same time examining with great severity into the plunderings committed in *Asia* by the *East India* company's servants; the accusers and the accused alike guilty, because alike secure, as they imagined, from question. Thus the poet of nature represents lady *Macbeth* encouraging her husband to murder his sovereign under his own roof, by the consideration, that there was no body who dared to call them to account.

In other countries, we find a connexion held between representation and responsibility.

The tribunes of the people, in the times of the commonwealth of *Rome*, had no will of their own. They were the mere speaking-trumpet of the people. And had the people been regularly formed into districts, in such manner as to prevent the corrupt populace of that great city from carrying every point by mobbing, all would have been well.

The deputies from the *Swiss* cantons to the general diet, receive instructions from their constituents, and think themselves obliged to conform to them\*.

The

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\* *Simpleri*, HELV. DESCR. p. 276—310.

The procuradores, or members for *Castile*, in the corte held at *Madrid*, in the beginning of *Charles V.* excused themselves from granting the supplies he desired, because they had received no orders from their constituents; and afterwards receiving express orders not to do it, they gave *Charles* a flat denial.

The same was the custom in *France*, before that country was enslaved. The general assemblies being laid aside, the same custom is still [latter end of the 17th century] used in the lesser assemblies of the states in *Languedoc* and *Bretagne*. The same is observed by the deputies of the cities of *Germany* to the diets <sup>a</sup>.

The deputies or members of the parliament of *Paris*, when all *France* was like to be ruined by the confusions in the minority of *Lewis XIV.* were afraid to sign a compromise for restoring the public quiet, lest their constituents should not approve of the terms <sup>b</sup>. Our deputies are not afraid to approve the measures of the court, though they know them to be the exasperation of their constituents.

Before the people of *Ireland* obtained a limitation of the time of their parliaments, they instructed their members, and many places went so far as to demand of them, before election, an oath, that they would vote for the measure <sup>c</sup>.

The deputies sent by each of the United Provinces to the States General are responsible only to the respective provinces which send them, and not to the States General <sup>d</sup>. In *England* our members do not hold themselves

<sup>a</sup> STATE TRACTS, Time of K. Will. III. 282.

<sup>b</sup> MOD. UNIV. HIST. XXV. 40.

<sup>c</sup> LOND. MAG. 1768, p. 131.

<sup>d</sup> Janiſon, 1. 78.

themselves responsible to their *constituents*, but to the *house*, and the house to the *prime minister*. Thus the people, who ought to be *all*, are *nothing*. The sagacious *Dutch* have guarded against the danger of lodging too irresponsible a power in the hands of their supreme assembly, or giving their deputies leave to sell them. The States General cannot, without the unanimous consent of all the provinces (who are too numerous to be bribed) make peace, nor war, nor raise troops, nor make laws affecting the whole republic. Nor can they repeal an ancient statute or regulation, nor elect a stadtholder, otherwise than at the risque of their heads, which they accordingly hazarded for the public good, *A. D.* 1668, when, to check the growing power of *Lewis XIV.* at the instance of Sir *W. Temple*, they signed the triple alliance, and elected the prince of *Orange* stadtholder, through fear of danger from slow counsels.

The people of *New England* keep up the right of instructing their members.

#### CHAP. IV.

*Unwarrantable Privileges assumed by the House of Commons, in consequence of inadequate Representation, and too long Parliaments.*

**I**N consequence of the inadequate state of parliamentary representation, the house of commons has assumed such a superiority over its constituents (and indeed, the burgesses of the meaner boroughs, who, as has been seen, have the credit of electing the majority

<sup>a</sup> ETAT PRES. par *Janison*, i. 85. *Rap.* ii. 650.

<sup>b</sup> LOND. CHRON. N<sup>o</sup>. 1505.

majority of the house, are a set of very contemptible people, scarce capable of electing, or of instructing) that, despising the thought of being answerable to them, they arrogate certain privileges *never granted* by the *people*, and assume the power of protecting, excluding, expelling their own members, of deciding their own causes, prosecuting, arresting, imprisoning, reprimanding, and fining their employers at their arbitrary pleasure, and according to I know not what *lex et consuetudo parliamenti*, which tramples on *Magna Charta*, and the Bill of Rights.

Sir William Jones indeed argues strongly, that the law of parliament is the law of the land. But in the prosecution of *Clarendon*<sup>a</sup>, it being uncertain at first, which way they should proceed, precedents were searched, and Sir Thomas Littleton reported, that the committee had found ‘*various proceedings in different parliaments.*’ What is then the *consuetudo parliamenti*?

Privilege and pre-eminence of every kind is invidious, and odious to the people. Whoever wanted to excite the *Roman* people against the senate, never failed to mention the law forbidding marriage between the patricians and plebeians. Even where privilege is bestowed in consequence of *merit*, it is but awkwardly brooked. ‘Why must *Aristides* be honoured with ‘the title of The Just, more than others?’ said the *Athenian*, and voted his banishment on that account<sup>b</sup>.

All privilege is a nuisance, whose extent is *unknown*; because the subject is thereby in danger of falling into *undesigned* offence. But it has always been made a point to keep

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<sup>a</sup> DEB. COM. I. 104.

<sup>b</sup> *Plut. in ARIST. Corn. Nep. in eod.*

keep the extent of parliamentary privilege, prerogative royal, ministerial power, &c. profound secrets. These are the *arcana imperii*, in *English*, tricks of state. But does the concealment of what may be *dangerous* to the people, shew, in government, a *paternal* tenderness for the people? And is that government any thing better than a tyranny, which shews a want of paternal tenderness for the people? The truth is, our ministers chuse to secure a *small* convenience to themselves (the convenience of keeping the people in fear of them) tho' at the risque of *great* loss to the subjects.

' I wish (says James I. in his speech, *March*, 1609<sup>a</sup>) that the law were written in our vulgar tongue.—Every subject ought to understand the law, [and, among other laws, the parliament law] ' under which he lives—that the excuse of ignorance may be taken away from those, who do not conform themselves to them.'

' In contending for the privilege of parliament, says a writer on general warrants<sup>b</sup>, I desire to be understood to mean, not that insolent abuse of privilege, which has made its name odious, and its existence intolerable; by which members of parliament have usurped a power of making *themselves* judges in their own cause, and avengers of their own quarrels; by which the course of law and justice has been obstructed, just debts withheld from many an unhappy creditor, and property detained from its true inheritor. I beg leave to mark out a distinction between the privilege and the prerogative of parliament, defining the one to be the exercise of a tyrannous and oppressive jurisdiction over the rest of the subjects; the other to consist

<sup>a</sup> HARL. MISCEL. I. 12.

<sup>b</sup> Alm. DER. COM. VI. 288.

\* consist in that *protection* which secures the represen-  
 \* tatives of the people from the power of the *crown*.  
 \* On keeping this privilege sacred and inviolate de-  
 \* pends the freedom of parliament, and of consequence  
 \* the being of our constitution.

The only use of parliamentary privilege from arrest, is to prevent a *tyrant*, or a corrupt *court*, from imprisoning, on pretence of debt, or distressing, such members as opposed their measures. But this might have been sufficiently provided against, without carrying privilege to such an unreasonable length, that there should be *no time* of the year, when a member, and his dependents, should be obliged to pay their debts.

It is well observed by an eminent lawyer in his speech in parliament \* That the privileges of the members of the house of commons might be said to be those of the people, if the members of the house of commons had no *interest* different from that of the people, which he affirms, is the very contrary of the truth.

Mark, how sublime the style of the following.

\* Resolved (by the commons, A. D. 1699) That to  
 \* assert, that the house of commons have no power of  
 \* commitment, but of their own members, tends to  
 \* the subversion of the constitution of the house of  
 \* commons.

We will allow the house of commons to have much *higher* powers. But let them be powers *fit* for a house of commons to have. Every puny justice has power of commitment. Again,

\* Resolved, That to print or publish any books, or  
 \* libels, reflecting upon the proceedings of the house  
 \* of

‘ of commons, or of any member thereof, for, or  
 ‘ relating to his service therein, is a high violation  
 ‘ of the rights and privileges of the house of com-  
 ‘ mons.’

This resolution puts an end to all enquiry into the behaviour of our *trustees*, and makes it impossible for us to call them to *account*, or to know, whether it will be safe to *re-elect* them or not. There is somewhat particularly gross and mean-spirited in stopping enquiry. It always suggests the idea of somewhat, which will not bear enquiring into. “ I care not,” says the honest old philosopher, if there were a window in my breast, that any body might look in and see what is passing in my thoughts.” Felony, breach of the peace, and treason, deprive a member of his privilege. And the commons lately gave up privilege, in case of seditious libels. Thus we see them *magnifying* privilege against the *people*, and *lowering* it in servile compliance to the *court*; directly contrary to what the spirit of liberty would dictate.

Sir Charles Sedley observes, in his speech, A. D. 1699, that when complain was made, that great part of the revenue remained unaccounted for, in the hands of the receivers, a member answered, It could not be helped; for that those receivers were *members*, and stood upon their *privilege*. Nor is it to be wondered that they should; since every 100,000 *l.* of the public money kept back, yields 4000 *l.* a year interest; and a great officer of the state, whose department lies among the finances, may keep in his own hands many such sums for many years. But this is *perverting* what

**VOL. I.** *Proved by no one but belongs*

*Blackf. Comm. i. 166.*  
*Des. Com. iii. 195.*

belongs to the public, and is as honest as it would be to steal sixpence a-piece out of 100,000 tickets.

There seems to be a small inconsistency between the qualification act and the privilege of members against arrest for debt. The former says, No man shall be member for a county, if he has not 600*l.* a year clear, nor for a city or borough, unless he has 300*l.* But the privilege supposes, that a member may be unable to pay his debts; and, in that case, provides against his being arrested, to the great inconvenience and loss of those, who have trusted members. Now, if it be improper that a needy man be a member of the house of commons, why must this needy man be privileged against arrests? Why should not the bailiffs have him, and another be elected in his room? If it be said, the arrest may be litigious; it may be the contrivance of a villainous minister, to put a friend to liberty out of the way on a critical occasion, the answer is short. Let the house of commons bail the arrested member, if they understand this to be the case; if not, let him be given up to his creditors. This would equally secure the member against ministerial tricks, and the creditor against abuse of privilege. It is criminal in any man to contract debts, which it is impossible he should ever be able to pay. It is criminal to protect such a debtor. Which doctrine, by the way, condemns all our too daring merchants, bankers, &c. who take whatever credit they can have in consequence of the too easy credulity of mankind, and extend their adventures, by which only themselves can be gained, at the peril of hundreds, who may be undone by them. But a member of parliament, a legislator, ought not to be supposed capable of ever coming into such circumstances, as to be liable to arrest for a just debt; or if he does, he ought to be left

left to the same law with other bankrupts. Where then is the honest use of this parliamentary screen? For it is to be observed, that privilege screens a member 40 days before and 40 days after the sitting of the house; against arrest for the most just debt, and for all sorts of offences, that do not come up to felony, breach of the peace, treason, or seditious libels.

*A. D. 1341*, the commons began privileging from arrest for debt by writ from the speaker. In former times, it was done by writ from the chancellor.

It is plain, that all the privileges assumed by members of parliament are not necessary for the public service, whatever they may be for their private; for they have often been dispensed with. An act was made, *A. D. 1641*, for laying down the privileges of parliament for a session, because the citizens complained that they lost money by them.

The freemen and citizens of *London*, in their petition to parliament, *A. D. 1646*, complain of many members, who stand upon privilege, and refuse to pay their debts.

An order was made, *A. D. 1647*, that no persons under authority of parliament, but the members, shall have protection or immunity by reason of privilege, nor any member be free from action or prosecution, but obliged to answer. Only their persons not liable to arrest.

In the year 1647, the commons ordered, that from *January 20th* of that year, none but members should, during that session, have protection by privilege of the house, in any suit, and that the estates of members be

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liable

\* *Hume's Hist. Eng.* ii. 249.

† *Parl. Hist.* i. 50.

• *Ibid.* xv. 233.

• *Ibid.* xvi. 486.

liable for debt, &c. And the same year, the peers gave up those lords, who by reason of their offences, had not liberty to sit in parliament, to be prosecuted by suits of law, and likewise their attendants, as if there were no parliament.

Privilege of members, as to person and estate, was taken off, *A. D.* 1649.

The lord mayor, aldermen, and commons, *A. D.* 1646, complained to parliament, that many were sufferers by protection of privilege; they complained of jealousies fomented between parliament and city, and their mayor suspended; desire that the debts due by parliament to the city may be put in course of payment. The Lords answer with great acknowledgments of the important services of the city, which they promise never to forget; and to do every thing in their power for redressing the complaints of the citizens, and particularly of the lord mayor, of whom they speak very highly. Commons give it a very cold reception. *Ludlow*, in his *MEMOIRS*, calls the petition an insolent address, and the commons' answer, A declaration that they would preserve their authority and not be dictated to.

A standing order of the house was published, *A. D.* 1739, against members giving protections.

The commons, *A. D.* 1678, put a stop to all protections granted by members to any but menial servants actually in service. A great grievance by abuse of privilege.

A good act was made, *A. D.* 1701, for explaining parliamentary privilege, which was a great nuisance, obstruct-

<sup>a</sup> *Whitelock's MEM.* 287, 290.

<sup>b</sup> *PARL. HIST.* XIX. 98.

<sup>c</sup> *DEB. COM.* XI. 321.

<sup>d</sup> *Ibid.* XIV. 421.

<sup>e</sup> *Ibid.* I. 276.

obstructing the course of justice, and preventing the demand of just debts from year to year; for the sessions of parliament being prorogued from period to period, the whole year round was a time of privilege. So natural is it to overstretch power in our own favour. *Doddridge* traces privilege for the servants of members back to 8 Hen. VI.<sup>a</sup>

*A. D. 1707. Agill*, a member, was in debt. His creditors petitioned the house, that he may not be defended by privilege from paying a just debt. It happened that *Agill* had written a silly pamphlet about the possibility of going to heaven without dying. The house took the opportunity of this pamphlet to expel him, on the statute of blasphemy. I suppose, without either violating privilege, or screening a bad man from paying his just debts.<sup>b</sup> Why should not all privileges both of lords and commons, be put on this footing, that no member of either house be liable to arrest, but with consent of the house, and the house always to consent, unless when the cause is litigious or unjust?

When it was moved, that letters of members go free during the sitting of the house, *Sir Heneage Finch* said it was a beggarly proposal. The lords left out the provision, and the commons agreed.<sup>c</sup>

*A. D. 1690. Mr. Montague* was charged in execution for 5073 l. He was at the same time elected member. The house of commons was puzzled, whether he could be received. But they found precedents in the preceeding parliament, and that lord *Cat*, Inst. 3. affirms, that all persons are eligible, except aliens, minors, and persons attainted of treason or felony.

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<sup>a</sup> PREF.

<sup>b</sup> DEB. COM. IV. 73.

<sup>c</sup> PARL. HIST. XXIII. 56, 63.

felony\*. It is, however, to be remembered, that noblemen, clergymen, women, lunatics, commissioners of customs, and several other placemen, are not eligible; and that a member for a county must have a qualification of 600*l.* a year, and for a city or borough 300*l.* a year. But the *Black*, and universities are exempted from qualifications.

Sir Thomas Shirley, a member, was imprisoned for debt in the time of *Jam. I.* The sergeant at arms was sent to the Fleet by the house to demand him. The warden refuses. The commons send for the warden, and commit him to the Tower. A dispute arose, whether the house's imprisoning the warden, could indemnify him, in case of his prisoner's escaping, during his absence. Some proposed to send, and break open the prison, and bring away Sir Thomas by force. [A whimsical application, rarely, of legislative power.] The speaker overruled this motion, telling the house, that it would be actionable. After much debating, they sent for the warden again, and put him into the dungeon called Little case. The warden offers to release Sir Thomas if two members will be security for the debt. The house refuses. At last they privately desire the king to order the warden, on his allegiance, to release Sir Thomas.

Mr. Ferrers, member for Plymouth, was arrested for debt, A. D. 1542, going to parliament, and carried to the Counter. The sergeant of the commons was sent to the Counter to fetch him. The people at the Counter resisted the sergeant, who complained to the

\* *Baron's Right of Elect.* 276,

*PARL. HIST. V. 113.*

the sheriff. They took part with their officers. The seignior returned to the house, and informed them. The commons resent highly. They rose, and went to the house of lords, to whom they related the affair. The lords and judges declared the contempt very atrocious, and refused the punishment to the commons, who returned to their house, and sent their serjeant to the sheriff with his mace, without a writ, though the chancellor offered them one. In the mean while the sheriff resolved to change their scheme, and deliver up Mr. Ferrers to the serjeant. The commons ordered the sheriff to attend them, with the clerks and officers of the Counter. They likewise ordered their serjeant to take into custody *White*, the person who had arrested him. The sheriff and *White* were sent to the Tower, the clerk of the Counter to a place, in the same prison, called Little ease, and the officer, who arrested Mr. Ferrers, and four others, to Newgate, who were not set at liberty, till the lord mayor petitioned for them. Was this contest suitable to the dignity of the house of commons? A battle between the gaolers of the Counter, and the representatives (such they ought to be) of the greatest people in Europe!

It is notorious, that from time immemorial, the house of commons has assumed to itself a power of trying, condemning, and punishing, in cases, where itself is the offended party, and often in a very arbitrary manner, and without due regard to the standing laws of the land. An assembly of representatives elected in an adequate manner, and holding their power a competent time, and upon the foundation of responsibility to constituents, would not have fallen into this error.

The MIRROR OF JUSTICE says, 'Parliaments were ordered to hear and determine all complaints of wrongful acts done by the king, queen, or their children, and some others, against whom common right cannot be had elsewhere'. Therefore offending subjects are to be tried at law, and not by parliament. It is not by a power of apprehending and imprisoning, that the dignity of parliament is to be kept up, any more than the credit of religion by fire and faggot. On the contrary, these violences necessarily bring both into contempt, because they suppose, that they are not sufficient for their own support without these unnatural helps. Let your religion be rational, and your parliament incorrupt, and they will defy abuse. Who ever heard of the venerable court of *Areopagus*, or the more venerable one of the *Amphictyons*, sending out their serjeant at arms to apprehend the writers of pamphlets against them?

It seems strange, that a part of the legislature should shew so little respect for the laws, as to set up its own *unenacted* and *hasty* resolutions as a better rule of conduct for judges, &c. than the *known solemn* acts of the whole parliament. Yet we often see them doing so. Sir Francis Pemberton, judge of the court of king's bench, had over-ruled a plea of an order of the house of commons, A. D. 1689, for arresting certain persons, and defended his proceeding; for that it was according to law<sup>a</sup>. Resolved, That the judgments given by Pemberton, *James*, &c. are illegal, and a violation of the rights of parliament, and that a bill be brought in to reverse those judgments. Another case of the same kind relating to a judgment of the court of king's bench on information against *Williams*, speaker of the house

<sup>a</sup> DEB. LORDS, I. 296.

<sup>b</sup> DEB. COM. II. 339.

house of commons, for matters done by order of the house, was resolved illegal, and against the freedom of parliament, and that a bill be brought in to reverse it.<sup>a</sup> *Pemberton* and *Jones* were examined again, and put in custody of the serjeant at arms.<sup>b</sup> Judge *Berkely* was taken off of his bench in *Westminster-Hall*, A. D. 1640, by the usher of the black rod, to the great terror of his brethren.<sup>c</sup> In those days the house of commons was *venerable*, as being known to act according to the general sense of the people. Therefore the people did not grudge them any degree of power. In corrupt times, when the people see their pretended representatives acting constantly in obedience to a designing court; they with their power *retrenched*, though the *retrenching* of the power of the house of commons is not the proper means for redressing the evil; but cutting off the communication between it and the court; of which more in the sequel.

The following instances shew what power has been formerly allowed our parliaments, when the people had a confidence in them. A. D. 1680, *Scroggs* was impeached of treason. Great question was made, whether he could be accused of treason, or of high crimes and misdemeanours only. It was argued, that parliament may punish as treason any crime tending to the destruction of the nation, though not declared to be treason by 25 *Edw. III.* *Trefilian* and his accomplices were condemned in parliament for crimes not before declared felony, by any promulgated law. *Empson* and *Dudley* the same. *Finch* and *Birkley* were condemned by parliament of treason for the same crimes as those charged on *Scroggs*, &c. The judges  
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<sup>a</sup> DEB. COM. II. 339, 341. <sup>b</sup> Ibid. p. 345.

<sup>c</sup> PARL. HIST. IX. 94.

in *Richard II.*'s time were condemned for giving extrajudicial opinions. A knight of *Cheshire* was condemned for conspiring the death of the king's uncle. An earl of *Northumberland* for giving liveries to so many that they were thought a little army. None of these were declared felony by any previous statute<sup>a</sup>.

The commons, however, made a bad use of the people's confidence, and began to use their power in a tyrannical and oppressive manner. Accordingly the judicious writer of a piece, entitled, *The Subject's Right of Petitioning*<sup>b</sup>, (which was written on occasion of the commons imprisoning the *Kentish* petitioners, *A. D.* 1701) observes, that 'great numbers of other subjects' had been imprisoned by them the same session, to the 'horror and amazement of all those, who knew the rights and liberties of the people of *England*; and therefore could not but be concerned to see them so miserably infringed; and that it was necessary, in order to prevent such acts of power for the future, to shew, that they were mere acts of power, and manifest *incroachments* on the rights and liberties of 'the people.' He shews, that the common law was formerly so tender of the subject's liberty, that it suffered none to be imprisoned, but for violence and breach of the peace. The lords brought in the custom of imprisoning 25 *Hen. III.* by the *STAT. MAREBOR.* for obliging bailiffs, or collectors of rents, to make up their accounts. Afterwards, 23 *Edu. III.* it was enacted, that debtors should be compelled by imprisonment to pay their debts. But if a debtor died in prison, the debt was paid. And by 1 *Edu. II.* no one was to be punished for breaking prison, 'forasmuch

<sup>a</sup> DEB. COM. II. 59.

<sup>b</sup> STATE TRACTS, time of *K. William*, III. 263.

‘such as one is warranted to do it by the law of nature,’ says the *Mentor*. By *Magna Charta*, ‘no free man shall be taken, or imprisoned, but by judgment of his peers, or the law of the land; which is explained by *ay Edo. III.* to be a security against imprisonment by petition or suggestion to the king or his council, or in any other way than due course of law [no mention of a vote of the House of Commons.] It is certain, says that writer, that men, imprisoned by the commons, underwent no judgment of their peers, were not committed by any legal process, or by any law, that we know in this land.’ He insists, that the commons have no right to imprison any, but their own members, and that only when absolutely necessary. The members know this power of the house, and voluntarily expose themselves to it, by going into the house, which other subjects do not; but claim the privilege given them by *Magna Charta*. He owns, likewise, that there may be some pretence for imprisoning persons not members, when guilty of breach of privilege, or contempt. [In which I think he makes too large a concession. I see not the justice, nor even the common decency of any set of men whatever (I am of opinion the two houses of parliament are but men) punishing any offence against another.] There is no possible case, in which a jury may not decide. Confinement by the commons alone, he observes, is an encroachment on the legislature, which consists of king, lords, and commons. The commons sending the subjects to prison, even though guilty, is assuming the office of the intruder, which belongs

• STATE TRACTS, time of king William, III. 267,

• Ibid. 268.

belongs to the *king*, the commons being of the *legislative* only. A power in the commons of imprisoning is a mockery, he thinks, of the people's liberty; because a free people ought to be liable to no punishment, but in consequence of some *known* standing law. Judges, and justices of the peace have a power of imprisoning in consequence of their being impowered by the king to execute the laws, which the commons are not. The commons have no need of a power to punish, because they may apply to the executive whenever a known law is violated. [Even the *sovereign* cannot punish an offence against *himself*. The offender is tried and condemned by *indifferent* persons, viz. judges and juries.] The house of commons has no power to decide concerning *property*; how then, he says, can it take away personal *liberty*, which is more valuable? He says, the power of imprisoning was but just *then* assumed by the commons, and could not plead custom, or prescription. Too great a power in the house of commons, he says, may produce great mischief many ways, particularly by disgusting the people against parliamentary government, and driving them to such a proceeding as that of the *Danes*, who, to be free from the tyranny of their lords, made themselves slaves to their king. When there is reason, he says, to suspect a great prevalency of bribery and corruption in the house of commons, it is time for the people to see to the *retrenching* of their power; [the cutting off of *court influence*, he should have said] for that a corrupt house of commons may be expected to make themselves formidable to the people, in order to be of consequence to the court, and to deserve the more liberal pay.\*

No

\* STATE TRACTS, time of king *William*, III. 270.

No set of men empowered *only* to make laws, can, without an express commission from the people, alter the constitution, because it is only upon the principles of the constitution, that they had their power entrusted to them; and the principles of the constitution will never bear them out in overthrowing the constitution. The people, whose original and inherent power established the constitution, may change the constitution, or empower a set of men to change it.

Writers on the side of this assumed boundless parliamentary privilege, by accustoming themselves to think of the house of commons as the representative of the people, fall into the mistake, that whatever is right for the *one* is right for the *other* likewise, and that whatever the people's power reaches to, is likewise within the reach of the assembly of representatives. And this is, generally speaking, true. But there is a distinction to be made. The people have certain incommunicable powers, which their representatives can upon no occasion challenge to themselves. The people alone can *choose* representatives. The whole body of representatives have not in themselves the power to *take in*, to *exclude*, or to *expel* from their house one single member, otherwise than according to notorious and stated laws made by the whole legislative power, and assented to by the people. This may be explained by comparing it with the king's power of commissioning ambassadors for foreign courts, which power is incommunicably inherent in him, in such manner, that all the ambassadors employed by the king cannot by any power of their own send an ambassador to, or dismiss, or expel one from the most inconsiderable court. Yet every ambassador, when furnished with his credentials, has the power of representing the king his master's

master's person at the court to which he is sent, in all those matters and things which enter into the function of an ambassador. Again, the people alone have the power of determining for how long a period they will continue their representatives in office. The assembly of representatives have not power to continue their own authority one day beyond the time for which they were elected. If they have, they may, at any time, erect themselves into *peers*, and insist on keeping their seats for life. Again, an assembly of representatives have no power to assume to themselves any unprecedented *privilege*; but the people have power to confer on their representatives what privileges they please, to limit them as they please, and even to new-model the whole government.

In the case of a court of directors, established by a trading company, it is universally understood, that the directors, when once established by the proprietors, have power to do whatever the proprietors could do for the common advantage of the company, this power being still left to the explication and limitation of the proprietors. But, when a director dies, or resigns, the court of directors cannot put another in his place. This is the incommunicable privilege of the proprietors. Nor can the directors lengthen, beyond the intention of their *constituents*, the time for which they were appointed. Nor can they assume to themselves any one power or *privilege*, different from those given them by the proprietors. Nor can they refuse a duly elected director, nor take in one of their own choosing, nor expel one chosen by the proprietors, otherwise than according to the laws of the company, and the powers originally reposed in them. Nor can they alter any thing fundamental in the constitution of the company;

party; but the *propositions* can, so far as to the total dissolution of the incorporate body. Therefore, when Mr. *Pynde* was threatened by Sir *H. Vane*, and Sir *A. Haslegrave*, to be voted out of the house of commons, *A. D.* 1649, he answered, 'He knew of no one in the house who had a right to vote him out, being equally engaged with themselves for the whole nation, and those he represented.'

As to the power assumed by the house, of sending for persons, papers, and records, and of reprimanding, fining, imprisoning offenders, it has long been questioned, and never rightly established. *Burnet* writes of it as follows; 'The commons could not receive an information upon oath, nor proceed against those who refused'. Their right of imprisoning any besides their own members, was inquired into, and it was found to be built on no law, nor practice, older than queen *Elizabeth*. Several people therefore, when sent for in custody of the serjeant at arms, refused to attend.

When the commons, in the third parliament under *Ch. II.* imprisoned, too arbitrarily, many of the abhorers, or court-party, the clamour turned against them, and one *Stuel* stood on the defensive against the serjeant, when he came to apprehend him, saying, The commons had no law for imprisoning. He got the better. And the commons, to save their authority, dropped the matter, and granted *Stuel* a month to recover from an indisposition, which he had not.

It is manifestly an irregularity for the house of commons, which is only a third part of the legislature, to take

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\* *PARL. HIST.* XXI. 395.

\* *Burnet's HIST.* OWN TIMES, II. 121.

\* *Ibid.*

\* *Hume's HIST.* STUARTS, II. 310.

to itself *single* the executive power. 'The house of commons has no more power to administer an oath than to cut off a head,' says *Charles I.* The power of the house (as being *no court of judicature*) to examine witnesses, was questioned by the lords, *A. D.* 1731. Though the commons had always claimed that power; yet it was a point still in dispute between the two houses. It was argued, that the commons had delegated that power to their committees. That members, who were justices of the peace, could administer the oath to the witnesses, for which there was precedent. That that house was a court of record, and as such they certainly had a power to administer an oath, in any affair that came properly before them. But being unwilling to have any dispute with the lords, the debate was dropped. There is no *statute law*, by which a *constitutional* power is given to the house of commons to order a paper to be burnt, and the sheriffs to attend and see it done. That they have assumed this power from time immemorial, is undoubted.

It was resolved by the commons, *A. D.* 1689, that *bailing* by the court of *king's bench*, persons committed by this house, is a crime, for which the advisers may justly be excepted out of the indemnification. The king's bench goes on, however, the same year, bailing by *Habeas Corpus*, persons obnoxious to the commons. The commons order the governor of the Tower to bring before them in custody of their serjeant at arms, Sir *Thomas Jenner* and others, who

\* PARL. HIST. XII. 66.

\* DEB. COM. VII. 242.

\* Ibid. 247.

\* Ibid. II. 321.

bailed before the warrant could reach them. Not giving satisfaction, on their examination before the house, a committee is appointed to prepare a charge against them. The governor of the Tower is ordered to bring before the commons several lords, and others. The commons prepare impeachments against them. They order several others into custody<sup>a</sup>. At the same time that the commons consulted safety, they punished cruelty. They ordered *Richardson*, keeper of *Newgate*, to be prosecuted for cruelty to his prisoners<sup>b</sup>.

In the affair of the printers in 1770, it was argued in the house of commons, that the power of summoning persons before them, and punishing for refusal, is necessary for preserving the purity of elections; because, if every returning officer may proceed as he pleases, and laugh at the house of commons, there must be an end of all due election and return. But we know that many matters relating to elections are now allowed to be cognizable in the courts of law. Why should not all? Why should the house of commons concern themselves with any thing, but their great objects, viz. legislation, raising supplies, and enquiring into the conduct of ministers? One thing we all know relating to this affair, viz. That if the commons would go on with their own business, and leave the decision of elections, and breaches of their own privileges, to the inferior courts, magnanimously declining to be judges in their own cause, and having nothing to do with any man, till he comes to take his seat, and has satisfied the house, that either his election was never questioned, or if questioned, was legally decided, as any other difference between man

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<sup>a</sup> DEB. COM. II. 356.

<sup>b</sup> Ibid. 357.

and man; it is, I say, notorious, that if this was the *lex et consuetudo parliamenti*, there would be no opportunity for the reflections now so commonly cast upon our house of commons, as deciding elections too much in favour of the *court*-candidate, and as taking upon themselves the *inconsistent* offices of *plaintiffs*, *judges*, and *juries*.

Judge *Blackstone*, in his account of the unknown and *unlimited* power and privileges of parliament, seems to forget, that the safety of the people *limits* all free governments. It is true that the people of *England*, not being accustomed, till lately, to apprehend danger from any quarter, but the *throne* (tyranny having been an old trick among kings from *Nimrod's* time down) have all along encouraged and supported their *parliaments* in extending their power, as the only sure bulwark against regal encroachments. But latter ages have taught us the necessity of looking out for security against *parliamentary* encroachments. And, the method is not by lessening the power of *parliament*, but by lessening the power of the *court* over the *parliament*. For a parliament is not (as a king) *naturally* hostile to liberty. If ever a parliament comes to oppose, or injure the people, it must be in consequence of an *unnatural* influence acting in it. Therefore our modern male-contentments seem to be in a wrong pursuit. To retrench the power of their *representatives*, would be lessening their *own* power. To break through the corrupt influence of the *court* over their representatives, would be making them *truly* their representatives. Take away court-influence, and the 558 will of course pursue the interest of their country, as any other set of gentlemen

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\* Com. i. 161, *et seq.*

men would do, because their *own* will be involved in it, when they have no places or pensions to indemnify them. At the same time it cannot be denied, that for a house of commons, though ever so incorrupt and uninfluenced by the court, to be ever grasping at new privileges, and assuming new powers, descending from the dignity of representatives of the majesty of the people of *Britain*, taking upon themselves the office of the justices, prosecuting, imprisoning, and fining, a set of printers and booksellers, depriving the subject of his trial by jury, and employing their time in hunting out small offenders, while they should be battling the gigantic enemies of liberty and virtue, and planning measures for making unborn millions happy; it cannot be denied, I say, that such proceedings as these are infinitely *beneath* the attention of a house of commons, though it should be granted, that the power of the house of commons, being the power of the people, ought not to be *limited*. All things are *lawful* for them; but all things are not *expedient*. The truth of the matter is, That if our houses of commons had kept to their proper sphere, we should never have seen any *libels* against them, nor any *occasion* for prosecuting, imprisoning, and fining; or if there had, the courts of king's bench and common pleas were open.

The following passages from the Magazines shew how these assumptions of the house of commons appear to the people.

It is not more known, than lamented, what an authority the house of commons has claimed over the liberty of the subject; and how numerous the instances are in our history, where, without the specification of any *crime*, or the execution of any *warrant*, they have voted a freeman of *England* into

\* *prison*, and kept him closely confined for *weeks*, nay  
 \* *months*, to the irreparable injury, perhaps, of him  
 \* and his family. To aggravate the cruelty of the pro-  
 \* cedure, they have even voted every body who offered  
 \* to procure him the least *justice*, an *enemy* to his  
 \* country; and deemed it to the last degree unpar-  
 \* donable, that he should have recourse to those very  
 \* *laws*, for satisfaction, which they *themselves* had esta-  
 \* blished for his redress. The privilege thus claimed  
 \* by the house of commons is no less repugnant to the  
 \* *laws* of this kingdom, than it is opposite to reason  
 \* and *nature*: if then we are desirous of restraining  
 \* the servants of the *crown* from the exercise of an  
 \* arbitrary authority, whence comes it that we have  
 \* never endeavoured to restrain our *own* immediate ser-  
 \* vants from the exercise of a tyranny practised a thou-  
 \* sand times more frequently, and infinitely more re-  
 \* plete with slavery and destruction? Perhaps it may  
 \* be said, There is no likelihood that the house of  
 \* commons will *resign* any part of their privileges.  
 \* What is this, but saying, that the august assembly  
 \* in question, will not adopt a measure highly *bene-*  
 \* *ficial* to the freedom and happiness of their *country*?  
 \* What is it, but saying, that they are *fond* of a *power*  
 \* to treat those very people as the most abject set of  
 \* *slaves*, whose liberties they have solemnly *sworn* to  
 \* *defend*? And what is it but a positive implication,  
 \* that they are the greatest of all *enemies* to that very  
 \* *national welfare*, which they profess to tenderly to  
 \* *cherish* and *befriend*?

Suppose a man had *personally* offended the majority  
 of the individuals, who happen to compose a *jury*,  
 that

\* LOND. MAG. Sept. 1765, p. 481.

\* Ibid. 482.

that is to try him. Would not every body acknowledge it would be great severity to refuse him the usual liberty of *objecting* to his jury? But suppose twelve men to commence a prosecution against one; and that those very individuals are immediately, in the very *rage* of their resentment, inclosed to pass a verdict, and determine of a punishment for an offence against *themselves*. Would this have the smallest semblance of *justice*? On the contrary, is it not the very design of law, to take out of the hands of the *offended*, the trial and punishment of the offenders, and put it into those of *indifferent* persons? But, when either house of parliament, or a court of justice punishes for breach of privilege, or contempt of court, the persons *offended* are the *judges*, and inflict the punishment.

If it be objected, that it is beneath the dignity of the august house of commons to submit their complaints against those who have been guilty of breach of their privileges, to the decision of a court of law (which the *sovereign* himself must do) let it be remembered, that, according to the present monstrous state of representation, a gentleman of 5000 *l.* a year, by sitting in the house of commons, in consequence of the votes of 10 beggars, acknowledges a *superiority* in those 10 men; for he could not have sat, if they had not *supported* him. If now he should *submit* to those 10 constituents *his part* of a *dispute* between the house of commons and an author, or printer, or between the house, and a member who has affronted them by accusing them of corruption, I should be glad to know, whether he would do a *meaner* thing than he has already done in submitting to those 10 worthies, whether he shall *fit* in the *house* or not,

It is the natural disposition of man, to overstretch whatever power he gets into his hands. It is the same incroaching disposition, that puts kings upon decision by arms, rather than by arbitration, which puts lords upon rejecting the most salutary bills, which puts them and commons upon punishing supposed offences against themselves, and which puts inferior courts upon punishing what they call contempt. And it is easy to find somewhat plausible to say in support of an unjust claim. But after all is said, it will still be true, that a king's choosing the brutal decision of arms, rather than the rational one of arbitration by *neutral* powers, that a house of lords or commons, taking into their *own hands* the punishment of supposed offences against *themselves*, instead of referring them to *indifferent* persons, and a court of law or justice *punishing* whatever it pleases to call contempt against *itself*, instead of leaving the matter to a jury of the supposed offender's *peers*, without which every punishment is *irregular*;—there is no doubt, I say, that all such proceedings as these are inconsistent, not only with justice and liberty, but with *civilization* and *polite*, and are the very evils complained of under *tyrannical* governments, and among *savages*, not yet regulated by government.

‘The legislative authority which has power to  
 ‘abrogate all laws now in being, cannot be tyed  
 ‘to any rules of human prescription, but there are  
 ‘eternal rules of equity and justice, right reason, and  
 ‘conscience, and these are unalterable, and never to  
 ‘be swerved from.’ Words of Sir Godfrey Copley,  
 concerning the house of commons trying Sir John  
*Fenwick* for treason in an unprecedented way.

Lord

Lord Coke<sup>a</sup>, and many other writers, make a great matter of the houses of parliament being the *sole* judges of whatever concerns their *own* houses respectively, because they are the *supreme* court, and no other court can intermeddle with their affairs. And it is, by the same able writer, and others, taken for granted, that every court is to be *sole* judge of its *own* privileges, and of offences committed against itself.

There is no doubt concerning the supremacy of parliament, and that therefore no inferior court can, of its own authority, *claim* the decision of differences between the houses, or between one house and a supposed offender, or offenders, against that house. But there is certainly a power in either house to *refer* to the decision of others any matter, wherein the *house* is itself a *party*. And it will *then* become lawful for those, to whom the *reference* is made, to *decide*.

It does not appear to me, that there is any thing *humiliating* in submitting to the decision, or arbitration, of a set of men, whether in or out of parliament, or that it necessarily implies acknowledging a *superiority* in those men. In a dispute between the king and a merchant, neither one nor the other thinks himself *degraded* by having the cause tried by the court of King's Bench, and the point determined by a jury. The cause must be tried in that court first, and cannot come before the lords, but by appeal. And even when it is finally determined by the lords, is the sovereign *degraded* by submitting to the decision of his *inferiors*? The lords are as much his inferiors after, as before. What could be nobler, than to see a man

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<sup>a</sup> INSTIT. v. 15.

of high rank and large fortunes decline to pronounce in a dispute between himself and one of his domestics, and leaving the matter to arbitration of his other domestics?

Supposing the house of commons elected in an adequate manner, that is, every member by about 400 men of property, I say that in submitting to their arbitration, a member would submit to his undoubted superiors in every respect. If every member submits, the house submits to their constituents. And surely it could be no degradation for them to submit a point of honour or ceremony, a matter of no national consequence, to their political creators, from whom they derive their very existence as a house.

Supposing it granted, that there is a difficulty either way, viz. Whether parliament takes into its own hands the punishment of offenses against itself, or leaves it to arbitration by others, will any man pretend, that the difficulties are equal on both sides? Nay, will not any man acknowledge that in declining to be judges in their own cause, there is *magnanimity*; as on the contrary (in all private disputes at least) there is much *selfishness* and *arrogance* in claiming to decide our own quarrels.

It is usually said, there are *customs* of parliament and other courts, which *themselves* only understand. Are then the customs of parliament and other courts only to be explained by algebra, fluxions, or the higher geometry? Or are they matters of plain *common sense*? If they be not, the most innocent and uprightly-intentioned subject may fall into the great and dangerous guilt of offending against those *inexplicable* customs and privileges, and may find himself suddenly in the same condition with the unfortunate sailor dashed on unseen breakers in an open sea, swallowed up and lost.

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*And* 1704, the lords, in their judicial capacity, determined, that a person's right to vote for a member might be tried in *parliam.* and that the commons have nothing to do with that point, and that, by their vote to the contrary, they had struck at the liberties of the people; the law of England, and the judicial power of the house of lords. This was taking the protection of corrupt returning officers, out of the hands of the house of commons. Even lord Coke, who magnified the power of parliament as much as any writer whatever, observes, that parliaments may do wrong, of which he gives several instances. He quotes one mischievous act with a flattering preamble<sup>b</sup>, by pretext of which *Bosson and Dudley* committed innumerable oppressions upon the subjects, and the act was accordingly repealed the first parliament after the death of *Hen. VIII.* in whose time it was made. "A good caveat," says he, to parliament, to leave all causes to be measured by the golden and straight metwand of the law, and not by the uncertain and crooked cord of discretion.

The popish party blamed parliament for taking into custody some of the abhorers. They said it was a matter which had no relation to privilege of parliament, signifying, that if it had, there had been no harm. We now question the doctrine of a power in the commons of imprisoning for any thing, but what stops proceedings of the house, and is done in the house. Instances were brought by Sir *William Jones*, of commitments of persons not members for faults not breaches of privilege, as for exercising patents condemned

<sup>a</sup> Burnet's Hist. OWN TIMES, iii. 39.

<sup>b</sup> INST. v. 39.

<sup>c</sup> DEB. LORDS, i. 276.

demned by the commons, and for faults in *preaching* and *catechising*. 'There would be no end, says he, of giving instances of such commitments which may be observed in almost every parliament.' This however was all wrong, as superseding law. Parliaments were listened to, and thanked for detecting wicked favourites by *Edw. I. Hen. II. IV. V. and Elizabeth*. The contrary by *Hen. III. and VI. and Edw. II. and Rich. II.* This was the proper business of parliament, the other of the courts of law.

The power of the house of commons to send even their *own* members (much more other subjects) to prison without tryal by jury, is to the last degree dangerous. For a house of commons may become, through court-influence, so generally corrupt, that they may see it proper to send every *honest* member to the Tower, the moment he opens his mouth against their traitorous measures, and in favour of his country. This could not be, if every person, whether member or not, offending, or supposed to offend, against the orders of the house, were to be tried, before he could be committed, by a jury of those, who are in every respect *equal* to the members. I mean the *people*, the *constituents* of the members.

There is an act 1 *Jam. I. cap. 16.* entitled, 'An act for new execution against any who shall be hereafter delivered out of prison by privilege of parliament, and for discharge of them, out of whose custody such prisoners shall be delivered.' This shews, that privilege was not originally intended for oppression of the subject. But judge *Hale* collects many instances of privilege allowed to members and the

\* *DEB. LORDS, I. 277.*

\* *Hakew. MOD. TENEND. PARL. 65.*

the servants of members upon very frivolous pretences, and to the great loss of their just creditors <sup>a</sup>. By 4 *Edw. III.* <sup>b</sup> it was enacted, that ' though the lords and peers of the realm in presence of the king had taken upon them to give judgment in cases of treason and felony of such as were no peers of the realm, hereafter no peer shall be driven to give judgment on any other than their peers according to law <sup>c</sup>. Why did not the commons come to the same resolution? See <sup>d</sup> many instances of punishments inflicted upon persons not members, for pretended breach of privilege, which would have come much more decently from the court of King's Bench, even though justly inflicted, which was not always the case.

Judge *Hales* says, both lords and commons independently have power of judicature <sup>e</sup>. Yet he says an ordinance, or resolution of one house, bindeth not in succession <sup>f</sup>, unless it afterwards receive the sanction of the other branch, or branches of the legislature.

*A. D.* 1584, Dr. *Parry*, for speaking freely in the house against a bill, was committed to the serjeant, brought to the bar, and obliged on his knees to confess his fault, and ask pardon, &c. <sup>g</sup> But by 4 *Hen. VIII.* cap. 8. it is enacted, ' That all suits, fines, punishments, corrections, &c. to be put or had upon any member, for speaking, reasoning, or declaring of any matters concerning parliament to be commenced, or treated of, be utterly void, and of none effect.' This act is declaratory of the ancient law and custom of parliament <sup>h</sup>.

<sup>a</sup> *Hale's Pow. of PARL.* 164.

<sup>b</sup> *Rot. PARL.* No. 6.

<sup>c</sup> *Hale's Pow. of PARL.* 26.

<sup>d</sup> *Ibid.* 173.

<sup>e</sup> *Ibid.* 25.

<sup>f</sup> *Ibid.* 26, 31.

<sup>g</sup> *Hakewel. MOD. TENEND. PARL.* 75.

<sup>h</sup> *Hale's Pow. of PARL.* 8.

## CHAP. V.

*Parliamentary Privileges and Prosecutions have been too generally frivolous and unjust.*

**T**O prove that parliamentary privileges and prosecutions are grievances, I will add here a few, out of a great many instances I had collected in the course of my reading, of parliamentary prosecutions, very much unworthy the dignity of parliament, which will shew, that it is not easy for men going out of their proper sphere to act suitably, nor to exclude passion and prejudice from their decisions in their own cause.

In fact, the liberty and property of free-born *Englishmen* are things of too sacred a nature to lie open to invasion, from the sudden resolutions of any set of men whatever. And yet greater depredations have not been committed, than those which the liberty and property of *Englishmen* have suffered, at the hands of kings and ministers, who have been artful enough to prevail with parliaments (naturally friendly to liberty) to become the instruments of their tyranny.

Some members of parliament, in the time of *Philip and Mary, A. D. 1555*, made a secession. Some were indicted and fined; others traversed; but the point was not decided, when the queen died.

*Mr. Taylor*, barrister at law, a member, was brought on his knees in the house, *A. D. 1631*, for saying, that the parliament had committed murder with the sword of justice, in the case of *Strafford*. He was expelled the house, and voted incapable of ever sitting more. He was committed to the Tower during pleasure

sure of the house; and afterwards carried to *Windsor* to make his recantation. *H A H C*

In the time of *Jam. I.* the year not mentioned, a member, for seeming to reflect on another member, as puritanical and factious, was called to the bar, and on his knees discharged the service of the house, with an intimation, that his sentence was very merciful, because they might have imprisoned him besides.

The commons, afraid of *Lilburne's* party and the levellers, made them close prisoners in the Tower; but this severe order was countermanded afterwards. His printed papers were ordered to be burnt by the hangman; the sheriff to protect him; the gentleman usher of the house to search for papers of the same kind, and bring them before the house.

There have been no cases harder than those, in which king, lords, and commons have concurred: as that of *Cromwel*, earl of *Essex*, who was attainted, and not suffered to come from the Tower to be heard.

*Hen. Marten*, esq. was disabled, *A. D.* 1642, and committed to the Tower by the house of commons, for reflecting on the king and royal family, but afterwards restored, and the sentence erased from the Journals. Several were disabled for having been in the king's quarters. One suspended for writing a book against the Trinity. Recants, and is restored; but afterwards disabled for the same offence. *Coningsby* expelled for being a monopolist. Commons ex-

*Hakerwel*, Mod. Tenend. PARL. 80. *Ibid.* 79.

PARL. HIST. XIX. 121. *Ibid.* xv. 25.

DEB. COM. II. 405.

PARL. HIST. IX. 15, et seq.

*Ibid.* 27. *Ibid.* 28.

clude all those members who voted for treating with the king; it is plain they thought they had power of exclusion and incapacitation. However, the people seemed pleased, for there came multitudes of addressees from all quarters approving of their proceedings.

*Cranfield* was fined 500*l.* each to four members whom he had slandered.<sup>a</sup>

*Lord Saville* was committed to the Tower, for refusing to name the person who had written a letter to him, which parliament had thought treacherous.<sup>c</sup>

An order, *A. D.* 1647, for several members of the house to take some of the deputies of the serjeant at arms, and to break open doors, and seize trunks and papers of one captain *Vernon*, was much opposed by some members, as altogether illegal.<sup>d</sup>

*Doctor Cary* was brought to the bar of the house of peers, *A. D.* 1677, and examined concerning a MS. carried by him to the press, on the illegality of the prerogation; because he would not answer certain interrogatories, he was fined 1000*l.* and kept in prison till he paid the money.<sup>e</sup> *Aaron Smith* being accused of seditious words to the same purpose, and absconding, the house addressed for a proclamation to apprehend him, which the king granted accordingly.<sup>f</sup>

Even the punishments inflicted by the House of peers, though undoubtedly a court, will not be submitted to without discontent, when ordered in this arbitrary manner.

Sir

<sup>a</sup> PARL. HIST. XVIII. 548.

<sup>b</sup> Ibid. XIV. 22.

<sup>c</sup> Ibid. XIII. 309.

<sup>d</sup> Whitelocke's MEM. 277.

<sup>e</sup> DEB. LORDS, I. 196.

<sup>f</sup> Ibid.

Sir *J. Maynard*, *A. D.* 1647, treats the house of lords with contempt. Is fined 5000*l.* and sent to the Tower<sup>a</sup>. Wanted to be tried by a jury. Nor will the subjects, while a spark of liberty remains, be reconciled to any other form of trial.

The commons took too much upon them, *A. D.* 1681, when they passed a vote, that the laws against recusants ought to be only put in execution against papists, and not against protestant dissenters. Their design was right, so far as they meant to favour protestant dissenters; but no single branch of the legislature has power to dispense with laws made by the united authority of all the three. They are to be regularly repealed by the same authority which made them<sup>b</sup>.

When the bill to prevent double returns passed, *A. D.* 1695, some lords protested, because the commons took too much upon them; when they pretended to settle the course of elections and returns by their vote, excluding the other house, which was making themselves, contrary to the constitution and sense of the public in all ages, a court of judicature<sup>c</sup>.

*John Riddle*, a school-master, was examined, *A. D.* 1654, for an *Arian* book. The book was burnt by the hands of the hangman. He was committed to the Gate-house, without pen, ink, or paper. Seems to have been a man of no depth. He was confined afterwards in Newgate, and then banished to the isle of Scilly<sup>d</sup>.

Parliament, *A. D.* 1650, takes up the office of criminal judges, and sentences several persons to the pillory for forgery<sup>e</sup>.

*A. D.*

<sup>a</sup> *PARL. HIST.* XVII. 517.

<sup>b</sup> *Burnet's HIST. OWN TIMES*, II. 135.

<sup>c</sup> *DEB. LORDS*, I. 459.

<sup>d</sup> *PARL. HIST.* XX. 398.

<sup>e</sup> *Ibid.* XIX. 255.

A. D. 1680, one *Sherriden*, is custody of the sergeant at arms by order of the house, had moved for his *habeas corpus*. Refused by judge *Ramsay*, because committed by order of the house, though moved in behalf of *Raymond*. Sir *William Jones* is against bailing in case of commitment by the commons. Says the house of commons is a court of itself, and part of the highest court in the nation, superior to those in *Westminster-hall*, and the laws made in it, are to bind the inferior courts, but cannot be understood to bind themselves. That it is dangerous to hinder the power of parliament (in those days the house of commons was the people). A commitment by the house is a judgment, and was never allowed to be bailable. If persons committed by the house on any account may be bailed, they may be bailed even though committed for breach of privilege, and then the house is disarmed of its necessary power. Thinks it improper to make any resolution, or give any answer to the motion in behalf of *Raymond*; but to leave the judges at their peril to bail persons committed by the house.

‘The highest court is to govern according to the laws, as well as the lowest’<sup>a</sup>. The words of the duke of *Buckingham*, 1668, 20 *Car.* II. speaking of the house of peers, directed to the commons in a conference on the affair of *Skinner*. He goes on, ‘I suppose none will make a question, but that every man and every cause is to be tried by *Magna Charta*, i. e. by his peers, or according to the law of the land.’ As if he had meant, that parliamentary trials are not according to *Magna Charta* and the law of the land.

‘The good old rules of the law are the best security; and let not men have so much cause to fear,

<sup>a</sup> *DEB. COM.* II. 60.

<sup>b</sup> *Ibid.* II. 124.

• that the judges who make of their estates shall  
• be and easily satisfied, when they are dead, by the  
• power of parliament.  
• Our judges and ministers of justice, neither can  
• nor ought, in reverence to the power of either or both  
• houses, to break the oath they have taken, for the  
• due and impartial execution of our laws, which by  
• experience have been found to be the best support  
• both of the protestant interest and of the peace of the  
• kingdom. *Charles II.*'s words in his proclamation,  
• *A. D. 1681*, and apology for dissolving his parliament,  
• premises very just, though ill applied.

In the case of *Lord Benson*, the chief justice *Hale*  
disregarded a vote of the house of commons, and in that  
of *Atter* and *White*, the courts of law took no notice  
of a vote of the house of commons.

The Lord chief justice *Hale* was a very learned in  
the law, and had on great occasions shewn an in-  
teresting zeal in asserting its authority. For he ven-  
tured on the indignation of both houses of parliament  
by turns, when he thought the law was with him.

Imprisonment by mere order of council was, in the  
time of *Charles I.* found to be illegal, and contrary to  
the rights of the subject, and it likewise inconsistent with the  
statutes in favour of liberty made since. By the same  
rule, imprisonment as a punishment, inflicted by any  
order whatever, without trial *per jures*, is illegal. This  
was the very tyranny of the star-chamber and high  
commission-courts.

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There

• *Charles II.*'s speech, 1662. *Deb. Com.* s. 56.

• *Deb. Com.* s. 162.

• *Ann. Deb. Com.* VIII. 350.

• *Tind. CONTIN.* I. 156.

• *Hume's HIST. STUARTS*, I. 151.

There was an order for a reward of 30*l.* *A. D.* 1677, for apprehending *Andreo Marvel* for publishing against the government<sup>a</sup>. *Shafesbury*, after many months confinement in the Tower, had recourse to the court of king's bench. Obtains no redress. Obligated to ask pardon of the house in terms dictated for him. Released after 13 months confinement<sup>b</sup>.

Several people were taken into custody for speaking disrespectfully of the house, *A. D.* 1697.

*Charles Caesar*, Esq. was committed to the Tower, for saying, the queen did nothing without a certain lord, who in the late reign was known to keep a constant correspondence with the court of *St. Germans*.

Articles against *Sir Edward Dering*, *A. D.* 1642, were, That he had encouraged a petition derogatory from the authority of parliament; in which petition it was requested, that no member should be expelled without shewing cause; that the subjects should not be bound by any order of either house singly, particularly that no order concerning the militia from the commons only should be binding. All this they declared wicked and seditious; and his having said, the delivery of the petition should be by 40,000 people, and his using means to raise an insurrection for that purpose. Declared a breach of privilege of parliament. He flies from justice. Summoned to answer before the parliament. Some of the men of Kent come to the parliament with their petition, though before burnt by the hangman. Some of them were committed, the rest dismissed.

Candles

<sup>a</sup> DEB. LORDS, I. 202.

<sup>b</sup> Ibid.

<sup>c</sup> DEB. COM. III. 72.

<sup>d</sup> Tind. CONTIN. I. 729.

<sup>e</sup> PARL. HIST. X. 454.

<sup>f</sup> Ibid. 472.

Candles called for, *A. D.* 1641, opposed by the majority. The serjeant by mistake brings them in. *Widdrington* and *Herbert*, members, take them away without orders of the house: great disturbance ensues. They are called to the bar. Are ordered to kneel. They refuse; and are sent to the Tower.

It was debated, *A. D.* 1696, whether the mace should lie on the table, as usual, while *Sir J. Fenwick* was under examination before the commons, and whether the sheriffs of *London* could have him in custody before the house. It was determined, that the mace should be held by the serjeant at arms at the bar by *Sir John*. He got his trial put off on false pretences, for which the commons meant to have him attainted, convicted, and executed, as a traitor for eluding justice; upon the same principle as people are outlawed, who fly from trial, or bankrupts are made felons, who do not appear to be examined, or culprits are pressed to death, who will not plead either guilty, or not guilty. A bill of attainder, a member said on that occasion, is an extraordinary thing, and never used, but upon extraordinary occasions. Parliament may declare that to be a crime, which was deemed no crime before it was committed, and surely they may determine what they will admit as evidence of a crime. Another said, It is lodged with the legislature to judge of those crimes, which are sheltered from the law; and he thought never any attainder was brought in upon a juster occasion than this.

It was alledged, that attainders are suspicious ways of proceeding, and dangerous in corrupt times. They who spoke for the bill, represented the parliament as possessed of a dictatorial power to take care, *ne quid*

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detrimenti

\* *PARL. HIST.* IX. 372.b *DEB. COM.* III. 33.

detrimens capiti republicæ, and to convict dangerous men upon such evidence, as to them might seem satisfactory, though not the formal evidence, required by law, and which inferior courts are obliged to follow. If all this be true, there is, surely, the utmost necessity for an incorrupt, for an *unsuspected* parliament. Attainders, it was said by others, were only to be had recourse to, against those, who were not forth-coming; but Sir John was in the house. The whole was a party-affair between the whigs and the tories, and the former were desirous of mortifying the latter. Several lords protested against his attainder, because bills of attainder against persons in prison, and who are therefore to be tried by law, are of dangerous consequence to the subjects and constitution; because the evidence of grand jury-men and petty jury-men, not given before the peers, was admitted, though they disagreed in their test; because information in writing was received, which prevents the witness being cross-examined; because *Fenwick* was cast by one witness only, and him a doubtful one; and because *Fenwick* was not considerable enough to be proceeded against in so extraordinary and irregular a manner, justifiable only in cases of great danger. *Fenwick*, however, was beheaded on Tower-hill, denying to the last, all concern in the assassination plot, though he owned himself a jacobite.

*Manley*, a member of the commons, was sent to the Tower, A.D. 1696, for saying, of it is not the first time there has been reason to repent men making their court to the government at the hazard of the people's liberties.

Buckley,

*Bacon*, printer, ordered into custody of the serjeant for printing *Memorial of the States-general*, reflecting on the proceedings of the house, 1712. <sup>1</sup> Resolved, That the great liberty of the press is very prejudicial, &c. That all printing presses be registered with the names and places of residence of the owners, and that the authors, printers, and publishers names be put to every publication. This, however, did not pass into a law; but instead of it, a heavy duty on newspapers and pamphlets, was afterwards proposed.

Complaint made to the house, A. D. 1712, of a preface to some sermons of Dr. *Hoadley*, bishop of St. *Asaph*. Ordered to be burnt by the hangman. The worst thing in the preface is, the good bishop's expressing his apprehensions, and those of all the wise and good of those times, concerning the danger in which the nation was involved from a jacobite ministry.

When the tory parliament of A. D. 1701, imprisoned the *Kentish* petitioners, many thought it to be the greatest outrage upon the people's liberties, alleging, it was their undoubted right to petition, that it were better to be under the oppression of one, than of many. What avails (said they) the  *Habeas Corpus* act. It looked (they said) as if the nation was betrayed, and *Englishmen* bought and sold.

Certain letters of Mr. *Chambers*, a member, were complained of, A. D. 1699, in the house of commons, as reflecting on, and misrepresenting several members. The house was informed, that it was carried 19 to 23, that he attend the house (though indisposed) and not leaving it was moved; that he be

<sup>1</sup> Deb. Com. IV. 297.

<sup>2</sup> Ibid. 298.

<sup>3</sup> Ibid. 319.

<sup>4</sup> Ibid. 322.

<sup>5</sup> See a larger account of this affair in the sequel.

be brought by the serjeant at arms. This, however, was over-ruled. But they resolved, That publishing the names of members, reflecting upon them, and misrepresenting their proceedings in parliament, is a breach of privilege, and destructive of the freedom of parliament.

Here follow several instances of punishments and censures inflicted by the commons on irregular proceedings in elections. *Dr. Harris*, for preaching about elections, was called before the house of commons, and on his knees ordered to confess his fault, and in the quarter-sessions, and in his own pulpit before sermon. *Ingrej*, under-sheriff of *Cambridge*, for refusing the poll, was committed to the serjeant at arms, and was ordered to confess his fault there, and at the quarter-sessions. The mayor of *Arundel* for putting the town to great charges, not giving due and general warning, and for packing elections, was sent for by warrant, and ordered to pay the charges. *Sir William Wey*, and others, deputy lieutenants of *Cornwall*, for assuming to themselves a power to make whom they pleased members, and defaming certain candidates, sending for train bands to be at the election, and menacing the court, under pretence of the king's pleasure, were committed to the Tower, to acknowledge their offence at the bar, and at the assize in *Cornwall*. Yet seizing and searching the papers of members of parliament was resolved to be breach of privilege, *A. D.* 1641.

Mr. (afterwards *Sir Richard*) *Strel*, was expelled the house, *A. D.* 1713, for reflections on the jacobite ministry

\* *Deb. Com.* III. 104.

<sup>b</sup> *Ibid.* III. 317, 318.

<sup>c</sup> *Macaul.* *Hist. Engl.* III. 19.

ministry in his *Englishman and Crisis* \*. All the wisest and best men in the house defended *Steele*. But he was expelled, because he had inluminated (what no body then alive doubted) that the protestant succession was in danger from the ministry. This prosecution, however, hurt the ministers greatly, and occasioned a great deal of searching <sup>b</sup>. But ministers have great power in bringing vengeance on their enemies. And parliaments have been too busy in humouring the views of ministers. *Mazarine* boasted (says cardinal *de Retz*) that if he had but two lines of any man's writing, he could cut off his head. But to return to the proceedings against *Steele*. He owned he wrote what he was charged with, and with the same cheerfulness as he had abjured the pretender. Blamed for the *Crisis* containing several paragraphs tending to sedition, and reflecting on the queen and government. Not allowed to defend what he had written paragraph by paragraph, but generally. Nothing could be done more arbitrary in the court of inquisition. Defends himself with great address. *Foley*, instead of answering paragraph by paragraph, *Steele's* defence, contented himself with saying it was plain to every body that the writings complained of were seditious, scandalous, and every thing bad. *Walpole* defends him, and shews that there was great reason to be alarmed.

There never was perhaps an instance of so trifling an affair producing such weighty consequences, as that of *Sacheverel*, 14. D. 1709. One would have imagined, that twenty silly bigots might have preached twenty capucinades each, and this great kingdom have

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remained

\* DEB. COM. V. 17.

<sup>b</sup> Ibid.

† DEB. LORDS, III. 382.

<sup>d</sup> Ibid.

remained in the same condition as if they had never  
 clipped their tails, viz. with the fatal and ill advised  
 measure, of suddenly impeaching the insignificant  
 counsel-chamber, contrary to the better advice of the  
 their attorney general, *Syde*, who was for burning his  
 sermon, and imprisoning him, and even that would  
 have been doing him too much honour, that produced  
 the mischief, and finally brought him to flame. For  
 the good natured people always pity the person, who  
 is punished, however atrocious his guilt. To endeavour  
 to make government still always consider, materially,  
 which of two courses, is likely to produce the  
 greatest good, and the least harm. But surely this  
 thought never once entered the heads of the then  
 ministry. For, it was manifest, on one hand, that  
*Sauveterre's* sermon was too weak a performance to  
 produce of itself any effect. And what probable  
 advantage could be expected from prosecuting, and  
 raising to importance, the author of a production,  
 which did not attract the attention of any person  
 whatever, though safe government is a duty of a  
 high order. *Dr. Hoadly's* sermon was complained of  
 by Lord *Orbigny*, and unanimously voted a libel.  
 Dec. 1739. The author absconded, but *Dr. Hoadly*  
 appeared, showed, that he be taken into custody  
 of him, and Lord *Orbigny* pleads for him, in consi-  
 deration of his surrendering, and because the author  
 was unknown. Other lords spoke highly against both  
 author, and publisher. The chancellor (*Hardwicke*)  
 explains the liberty of the press. to *Hoadly*, it meant  
 originally the liberty of printing, instead of transcrib-  
 ing. He says, there are several statutes, repealed,  
 against publishing defamatory libels in writing, before  
 printing

printing was discovered, no libel. *Tillot* answered, that then the right way was, That any man who thought himself injured, should prosecute *Milburn*, before a court of justice; and *Leconet*, says he, such a charge 'die against us. That we were judges, jury, and parties in the same cause.' *Didley*, however, taken into custody of blackrod, cum oet mil gniob ses.

A paper entitled, *Constitutional Queries*, was sent, And. 1739, to most persons of rank, and left upon the tables of most coffee-houses, insinuating designs against *Frederick*, prince of Wales, and the protestant succession. It was censured by both houses, as malicious, false, &c. and the king was requested to give orders for prosecuting the author, &c. But no author was ever found out.

Of this *Henry*, *Barrow*, a lawyer, the same year, (who had been ordered by the commons to come to the bar of their house to receive upon his knees, his sentence of imprisonment in Newgate for breach of privilege, &c.) *Mr. Murray*, not thinking his crime worthy of a charter of catching the great distemper, and losing his life about a matter of privilege, had prudently kept out of the way in the debate on this affair, & *Barrow* was observed, that the commons, in such cases, assumed a privilege, which the king has not, viz. of punishing a subject without legal trial, excepting in the peculiar case of suspending the *Habeas Corpus*, when there is an actual rebellion in the country. There was a pamphlet published, giving a full account of his case. It was read in the house of commons, and the usual black epithets of malicious, seditious, scandalous, &c. heaped upon it.

A noble

\* *Deb. Lond.* vi. 23.

\* *Ann. Deb. Com.* xv. 218, 219.

A noble duke, who happened to be present, was so ashamed of the picture drawn of him in the pamphlet, that he made his escape out of the house. The commons addressed the king to prosecute the author, printer, &c. 'But an independent English jury brought in a verdict, Not guilty.'

Mr. *Wilkes's* prosecution does not properly belong to this chapter, having been carried on by the *secretaries of state*. Of his repeated *expulsion* by the house of commons, in spite of his re-election by a great majority of the freeholders of *Middlesex*, see the sequel. I will only observe here, that in the year 1773, of 352 members, all but 50 were for reversing the determination of the *Middlesex* election by a bill to regulate the rights of election.

The mention of Mr. *Wilkes's* expulsion, and re-election, calls up that of Mr. *Adams*, a member of the assembly of *Barbadoes*, who, A. D. 1762, was prosecuted, fined, and imprisoned for resisting the sheriff in the execution of his duty. The assembly expelled him. He was re-elected—re-expelled. His electors insisted, that *they*, and not the assembly were the judges of the fitness of persons to represent them; and there was no law, by which Mr. *Adams* was disqualified for a *representative* merely for his having resisted the sheriff, though there was for punishing him otherwise, which punishment accordingly he had suffered. Mr. *Adams* was then formally disqualified by act of governor, council, and assembly. He appealed to the king. His disqualification was reversed, with a declaration, that it was arbitrary, and contrary to the spirit of the *British* constitution. But this by the

<sup>a</sup> *Alm. Deb. Com.* v. 6.

<sup>b</sup> WHITEHALL EVEN. POST, Apr. 24, 1773.

<sup>c</sup> LOND. MAG. 1769, p. 133.

the way. To return: In the case of the printers, who published the debates of the house of commons, *A. D. 1771*, and were proceeded against by that house, it did not appear, that they had any legal authority for apprehending, or committing; for, though they obtained a royal proclamation against the offenders, they could not, or, however, *did not* oblige them to appear before them. On the contrary, the lord mayor and aldermen of *London* protected the printers, and obliged the person, who apprehended them, to find securities to answer for his offence. And the printers continued to publish the debates. One of the aldermen wrote to the secretary of state an account of his proceeding. And the accused printer sent the speaker the opinion of council upon the house's proceeding and the royal proclamation, *viz.* That both were illegal, unconstitutional, and void. On that occasion, authorities were brought from history and law in justification of what was done by the lord mayor and aldermen in opposition to the house of commons as follows.

*Burnet*, in his *HISTORY* of his *OWN TIMES*, relates, That the commons sent their serjeant to bring before them many of the abhorers; which brought their authority for punishing any others besides their own members, into question, because they cannot receive an information upon oath, nor proceed against those, who refuse to appear before them. Many refused to obey their summons; it being found, that the practice was no older than the days of queen *Elizabeth*. Again, the oath of every alderman obliges him to keep up the franchises of the city; one of which, granted by *Edw. III.* in parliament is, That no summons, attach-

ment, or execution be made in the liberty of the city, by any king's officers [consequently, I suppose, much less by the officers of the lower house of parliament] but only by ministers [officers] of the city. The charter of *Edw. IV.* gives to that corporation of *London*, the whole and exclusive execution of all warrants, with the return of the same by such their minister, or deputy, whom they shall thereto choose. And by *2 Will. and Mary* the corporation of *London* is confirmed in all its privileges and franchises, of which it is not, on any pretence whatever, to be deprived or en. on. But all

Why does not the house of commons let the people know their privileges? Why are not those privileges established by law? When they think themselves offended, why do they not prosecute the offender in a legal and constitutional way, which would stop all reflections upon them? The king's causes are tried in the courts of justice by judges and jury, who are not *foreign persons*. Why is any individual, or any assembly of men whatever to be judges jury, and *examiners* in their own cause?

The *lord mayor* and *aldermen* *Oxford* were afterwards committed to the Tower by the house of commons, who refused to hear their defence by council. *Alderman Weller* was ordered to attend the house, but he told the speaker a direct refusal, because he was not summoned as a member, to answer in his place.

This whole proceeding of the house of commons, was condemned by many both within and without doors. And it may be affirmed, that the people of *England* will never, while a spark of the fire of liberty remains, be reconciled to so assumed power is *representative*

*sentences to imprison their constituents without trial*  
*by jury.* [It has been said] How are the commons to obtain  
 the information necessary for making laws, or en-  
 quiring into the conduct of ministers, if they can-  
 not oblige persons to attend? The answer is, They  
 certainly cannot; and therefore ought to have a power  
 of compelling attendance as the courts have. But this  
 has nothing to do with their assuming a power of  
 imprisoning those who do attend, nor would if their  
 attendance was required for any other purpose than  
 that of punishing them. In fact, no inconvenience  
 could arise; but, on the contrary, great advantage,  
 from every count, arising up what the king must give  
 up. The claims of judgments and punishing pre-  
 tended contempts, or other offences, against the  
 House. It is a whimsical part of our political eco-  
 nomy, that if any person or body of persons  
 offends the House, or contempt, they shall be the matter  
 and their own hands, and punish with fine and im-  
 prisonment. But if a minister has offended against the  
 people, the commons can only impeach him before the  
 upper House. The commons punish offences  
 against themselves; which I once would rather suppose  
 they would refer to others, as doth by reference the  
 punishment of offenders against the people. Who is to  
 punish them? which one should rather suppose they  
 would keep in their own hands, as it is the nature of the  
 proper functions of the legislative commons is to hold,  
 and inquisitorial and legislative by themselves are ever  
 bringing into the House, which is in part of their  
 duty to do, and while a spark of the fire of liberty  
 was never extinguished, as before the Lord Mayor, on  
 the same occasion, That the courts of law have power

to enquire into the acts of the *highest* authority. 'If the king himself exercises any act of power not conformable to law, the courts will remedy it.' Lord chief justice *Holt*, on another occasion of the same kind, insisted, 'That if what the house of commons called a contempt, was not really such, the person committed must be discharged by the court of king's bench or common pleas;' and in this opinion he was supported by the lords. The same celebrated judge held, that the vote of the house of commons forbidding any one to seek a legal remedy against their orders, was illegal, and he accordingly discharged the persons committed for contempt of that order.

*Hakewel*<sup>b</sup> brings many instances of persons punished for serving members with subpoenas, writs, &c. while the house was sitting. Prosecutions against members were commonly stopped by letters issued from the house. Members were by privilege exempted from serving as jurymen. He brings also a multitude of instances of members servants, &c. being set at liberty from arrests. *A. D.* 1640, the time of privilege was 16 days exclusive before parliament, and 15 days inclusive after<sup>d</sup>.

Privilege of parliament extended not only to the persons of members, but to their cattle and other goods.

*Mr. Arthur Hall*, *A. D.* 1580, was committed to custody of the serjeant, for publishing conferences of the house; and afterwards to the Tower for 6 months, expelled.

<sup>a</sup> See LONDON MAG. April, 1771.

<sup>b</sup> MOD. TENEND. PARL. 88.

<sup>c</sup> Ibid. 97.

<sup>d</sup> Ibid. 109.

<sup>e</sup> *Hales's POWER OF PARL.* 28.

expelled the house, and fined 500 l. \* He refused to retract, and was for ever disabled to sit in parliament.

I am afraid of tiring the reader by enumerating instances of such parliamentary prosecutions, as may be said to be frivolous, or arbitrary. A well constituted and upright parliament will have but little occasion to prosecute for disrespectful speeches; for nobody will speak disrespectfully of an assembly of men, who shew themselves solely and sincerely attached to the public good. Or if any persons should be so rash and malignant, the general hatred or contempt, which they will certainly draw down upon their own heads, will supersede all use of prosecution by the offended persons. Or if prosecutions be necessary, let prosecution be commenced (as when offence or injury are committed against the king) in the courts of law; and let the accused be tried according to the *known* laws of his country, and be acquitted or condemned by the verdict of a jury. All other modes of trial are violations of the constitution.

The collection made by *Petyt*, in his MISCELL. PARL. of parliamentary prosecutions on account of disrespectful speeches, makes our ancestors appear mean-spirited. *John* such-a-one wished that the devil would take the parliament. *Thomas* such-another said, the parliament was carrying on works of darkness. A third said, he was not afraid of the pillory. What then? Was it not infinitely beneath the magnanimity of a supreme legislature to take notice of such trifles? This recalls to my memory an old presentment by an inquest; \* We sayen, that *John Stevens* is a man, we cannot tell what to make of him, and he hath books, we do not understand them.

\* *Hakerwel*, MOD. TENEND. PARL. 72.

## CHAP. VI.

*Of excluding the People from the House of Commons, and punishing those who publish the Speeches made there.*

**A**NOTHER consequence of the inadequate state of parliamentary representation, and of too long parliaments, is, a dangerous power assumed by the commons, of clearing their house, and excluding their constituents from the satisfaction of knowing how their deputies behave themselves, and whether they consult the public interest, or play the game into the hands of the ministry. Upon the same principle they found the practice of punishing all persons, who publish any speeches made in their house.

As to the house of lords, supposing it once granted, that it is wise to allow any set of men a power of consulting for *themselves*, without regard to the *public*, and putting a *negative* upon the most salutary national proposals, if thought by *them* likely to entrench upon *their* particular privileges (a point, the proof of which I should be sorry to have imposed on me) supposing, I say, a house of lords upon the foot of the *British*, it follows, that they have a right to exclude all, but peers, from their deliberations; because they are doing their *own business*, and not the *public*; they are acting for *themselves*, and are principals, and not deputies.

But surely the faithful representatives of the *people*, cannot dread the *people's* knowledge of their proceedings in the house. An aristocracy of persons, whose interest may be different from that of the people, a court of inquisition, or a *Venetian* council of Ten, might

might be expected to shut themselves from the sight of the people, but not a house of representatives assembled, by the people's order, to do the people's business. How are the people to know which of their delegates are faithful, and ought to be trusted again, or which otherwise, if they are to be excluded the house?

Even in the house of peers, this custom has been blamed.

'It is not, my lords,' said the earl of *Chesterfield* on this subject, *M. D. 1740*, by excluding all sorts of strangers that you are to preserve the antient dignity of this assembly! It is by excluding all manner of quibbling, impertinence, deceit, weakness, and corruption. These, I hope, are strangers here; I hope your lordships will take care never to admit any one of them within these walls; but by excluding other strangers, when you have nothing of a secret nature under consideration, you will only raise a jealousy of the dignity of your proceedings, and if this jealousy should become general, without doors, you will in vain look for respect among the people.

There were many strangers in the gallery of the house of peers, on occasion of the enquiry into lord *Peterborough's* conduct in *Spain, M. D. 1711*. A motion was made to clear the gallery. But the duke of *Buckingham* opposed it, and they were suffered to stay.

The commons, *M. D. 1774*, having cleared their house of all strangers, not excepting peers, it was moved in the house of peers, that the house be cleared of all strangers, not excepting members of the house of commons. The duke of *Argyll* opposed the shutting of the house of peers, and said it was for the honour of

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that august assembly, to shew that they were *better bred* than the commons <sup>a</sup>.

*Hakewel* says <sup>b</sup>, the commons finding persons in their house who had no right to be there, have obliged them to take an oath, that they would keep *secret* what they had heard.

‘Of right the door of the parliament ought not to be *shut*, but to be kept by porters, or king’s serjeants at arms, to prevent *tumults* at the door, by which the parliament might be hindered.’

It was common in former times for the *members* themselves to *publish* their speeches made in the house. Accordingly there are extant to this day, many of them in pamphlets of those times, and in *Rushworth’s*, *Nelson’s*, and other collections. In our times it is punishable to publish any of their doings, though they do not *themselves* publish them, and the very gallery is cleared, that we may not know which of our *deputies* is *faithful* to us, nor which *betrays* us.

The order of the house of commons against printing the speeches was made, *A. D.* 1641 <sup>d</sup>, in *times* which our courtly men will hardly allow to be of good *authority*. The order itself is not justifiable upon any principles of *liberty*, or of *representation*, unless the debates were regularly *published* by the *members*. For *published* they ought undoubtedly to be; if *delegates* ought to be *responsible* to their *constituents*. My lord mayor, therefore, and Mr. alderman *Oliver* were severely dealt with, in being sent to the Tower, *A. D.*

1771,

<sup>a</sup> *Find. CONTIN.* I. 345.

<sup>b</sup> *Hakewel, MOD. TENEND. PARL.* 86.

<sup>c</sup> *Ibid.* p. 23.

<sup>d</sup> *Alm. DEB. COM.* IX. 274.

1771, for defending the printers in doing only what ought to have been done by the *members*.

Sir *Edward Dering's* speeches were published by himself, *A. D.* 1641.

‘Resolved, That they are against the *privilege* of the house, and shall be burnt by the hangman in *Westminster, Cheapside, and Smithfield*; himself *disabled* during the parliament, and to be *imprisoned* in the Tower, during the pleasure of the house.’ He was released, however, in a few days \*.

*A. D.* 1720, the proprietors of the redeemable funds being discontented, petitioned to be heard by council against a bill then before the house. They went in considerable numbers to the lobby, to wait the event. The justices were ordered to clear the passages. They read the riot-act. On which occasion, some of the petitioners said, It seemed to them a strange proceeding, to treat a set of *peaceable* subjects, people of *property*, who attended the house to complain of grievances, as a *riotous mob*; and that the commons first *picked* their pockets, and then sent them to jail for *complaining*.

Whatever has been advanced in support of printing the Votes and Journals, is equally strong against clearing the house. The house of commons is the *people's* house, where the *people's* deputies meet to do the *people's* business. For the *people's* deputies, therefore, to shut the people out of their *own* house, is a *rebellion* of the *servants* against their *masters*. That the members of parliament are, according to the *constitution*, servants, is manifest from the notorious fact of their constantly receiving *wages* for many centuries together, which members, accordingly, forfeited by absence,

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neglect,

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\* *PARL. HIST. X.* 267.

neglect, &c. 'Who sent us hither?' (says Sir F. Winnington, in the debate upon this subject, *A. D.* 1681.)  
 'The privy-council is constituted by the king; but the  
 'house of commons by the choice of the people. I  
 'think it not natural, nor rational, that the people  
 'who sent us hither, should not be informed of our  
 'actions.' Suppose the directors of the *East-India*  
 company were to shut out the proprietors from their  
 house, and then dispose of their property at their plea-  
 sure, defying all responsibility, how would this be taken  
 by the proprietors? The excluding the people from  
 the house of commons, and punishing the publishers  
 of their speeches, is precisely the same incroachment  
 on the people's rights; only so much the more atrocious  
 in consideration of there being no regular appeal from  
 parliament, whereas there is from the directors of a  
 trading company.

Sir John Hartop moved, *A. D.* 1681, that the votes  
 might continue to be printed<sup>b</sup>. A motion for printing  
 the votes, *A. D.* 1688, passed in the negative<sup>c</sup>. The  
 votes of the commons were ordered to be printed,  
*A. D.* 1690<sup>d</sup>. The gallery and speaker's chamber  
 were cleared of strangers, on occasion of the pro-  
 secution of Mr. (afterwards Sir Richard) Steele,  
*A. D.* 1713<sup>e</sup>. Resolutions were made, *A. D.* 1742,  
 to print the journals of the house of commons, which  
 begin with *Edw.* VI.<sup>f</sup>, to the number of 30 volumes,  
 1000 copies; which is done accordingly; I know not  
 whether begun at that time, or afterwards. For *A. D.*  
 1752, 'the house came to a resolution to print their  
 'journals, which had hitherto been in manuscript.'

There

<sup>a</sup> *Deb. Com.* II. 105. <sup>b</sup> *Ibid.* 104. <sup>c</sup> *Ibid.* 201.

<sup>d</sup> *Ibid.* 375. <sup>e</sup> *Ibid.* v. 67. <sup>f</sup> *Ibid.* XIII. 264.

<sup>g</sup> *Ann. Deb. Com.* v. 34.

There was a long debate about printing the proceedings and debates of the house, A. D. 1738, in which it was observed, that it is a hardship for members to have their sentiments *misrepresented* and *falsified* in News-papers and Magazines, &c. But Mr. Pulteney said, 'Parliament, when they do any thing amiss, will be talked of with the *same* freedom as any other set of men whatever. This parliament, I hope, will never deserve it; but, if it did, I should be very sorry, that any resolutions were entered into, in order to prevent its being represented in the present, or the next age, in its *proper* colours. Whatever the other house may do, I hope, we shall never stretch our privilege so far, as to *cramp* the freedom of writing on public affairs.'

There was a pamphlet at this time ascribed to *Walpole*, which contained a history of queen Anne's tory parliament. This publication *Walpole* defended, because that parliament *deserved* to be disgraced. But who shall decide which parliament *deserves* to be disgraced, and which to be *honoured*. The sure way, in all events, is, to admit as many strangers as the galleries will conveniently hold; that the members order *genuine* copies of their speeches to be published; of which authenticity the *hearers* in the galleries will be able to judge; and then no *spurious*, or *unauthenticated* publications of speeches will be received by the people; because they will certainly choose to read those whose authenticity is established by a cloud of witnesses.

CHAP. VII.

*Of Absentees from the House, and Members neglecting Parliamentary Business.*

A NOTHER evil arising from the miserably inadequate state of representation and consequent contempt, which members acquire for their constituents, is, their taking the liberty of *absenting* themselves for frivolous or no reasons, and of attending very *carelessly* to the business of the nation, when they come to the house. Did a gentleman recollect, that at his election he received an *aweful charge* from an *august* meeting of 5000 of his countrymen, and gave a solemn *promise* sealed with the religion of an *oath* to be *diligent* and *faithful* in discharging the momentous trust then committed to him, and did he know, that those who *employed* him, would *censure* him publicly, if they found, that he did any body's business in parliament but *theirs*; he would tremble at the thought of trifling with so sacred a function. But when a youth just come from *Oxford*, remembers, that he was elected (as it is called) by a few *drunken idiots* in a paltry *borough*, and carried round the town in an old oaken chair, and that he has his place as he has his estate, or that he gave every voter *five guineas*; it is no wonder, that he considers the whole as a very paltry *farce*, which he may attend to, or neglect, as he *pleases*.

It is supposed that members of parliament have often done the business of a corrupt court by *seasonably* playing *truant*. Those gentlemen shew themselves not abandoned to all sense of shame. When the public has been betrayed by a villainous vote for an augmentation

mentation of the army, or an extension of the excise laws, they did not vote *wrong*, they cry; they were not *there*. But *why* were they not there, to vote right, and endeavour to make others vote right? Why were they not upon *duty*, taking care of their *country*? Ah! if a man loves his young and beautiful wife, and regards his honour, he will not leave her in the hands of a known rake; or if he loves his *money*, he will not leave his strong box open to a thievish servant<sup>a</sup>. No more will a gentleman, who loves his *country*, leave her in the hands of unknown persons, who may betray her. Do gentlemen consider of what consequence a *few* votes may be?

The oath in favour of passive obedience and non-resistance was rejected by only *three* votes. The bill, *A. D.* 1692, for totally disqualifying placemen for sitting in the house of commons (the best bill, surely, as to its object, that ever was brought into the house) was rejected by only *two* votes. The famous amendment by the lords to the bill of *Jan.* 27, 1702, by which amendment it was made high treason to attempt to set aside the protestant succession in the house of *Hanover* in case of queen *Anne*'s leaving no posterity, was carried by only *one* vote, 118 to 117<sup>b</sup>. I have been told, that a member of that parliament, who was infirm and gouty, but proved *faithful* to his country in *attending* at the hazard of his *life*, often mentioned his own proceeding on that occasion with *pleasure*, and particularly on his *death-bed*.

The ruinous act in favour of the *French* trade; *A. D.* 1713, was thrown out by only *nine* votes, viz. 194 against 185<sup>c</sup>. Only 9 true *Englishmen* in the house!

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<sup>a</sup> See CATO'S LETT. No. 99.

<sup>b</sup> DEB. COM. v. Append. 110.

<sup>c</sup> Ibid. v. 40.

In the end of queen *Ann*'s reign, a place-bill was lost in the house of peers for want of *one* vote, while one of the lords, who had two proxies in his pocket, was buying a penknife.

The act, *A. D.* 1728, by which a fine of 500*l.* is enacted for asking, or receiving, by himself, or another, money, or other reward, by way of gift, loan, or device, &c. for voting, or declining to vote at elections of members of parliament, was carried by only *two* votes, *viz.* 91 to 89.

The motion, *A. D.* 1741, for enquiring into the conduct of affairs in *Walpole*'s 20 years reign, was carried in the negative by two votes, 244 to 242.

‘How often, while the *merits* of a contested election have been *trying* within these walls, have the benches been almost *empty*? But the moment the *question* approached, how have we seen the members eagerly croud to their seats, and then *confidently pronounce* upon a subject, on which they had not heard a *syllable*, but in *private* from the *parties*.’ To such a mockery have we reduced the most *important* of all earthly things, I mean parliaments. After turning them, in this manner, to a *farce*, after laying aside all that was *useful* to the *people* in them, what step are we most likely to take next, but to lay *parliaments* themselves aside?

Our ancestors were sensible of the evil of absenting, and therefore they made laws for *punishing* delinquent members by mulct. So among the *Romans*, absentees from the senate, without sufficient cause shown, were fineable, and obliged to give security for payment.

† Speech of a member, *LOND. MAG. May*, 1770, p. 180.

† *PARL. HIST.* I, 396.

ment. By 7 *Edw. I.* stat. 1. 'To all parliaments and treatises [treaties, or meetings for public business] every man shall come without force of arms.' See the 5th stat. *Rich. II.* cap. 4. 'That every one, to whom it appertaineth, shall, upon summons, come to the parliament.' By 7 *Hen. VIII.* cap. 16. 'No knights of shires, nor burgessees shall depart before the end of parliament.' [N. B. We should say, before the end of the session. But in those times every session was a parliament.] The penalty was loss of wages. A call of the house, *A. D.* 1641, with severe penalties for absentees. Orders and resolutions for putting the kingdom in a state of defence. A call of both houses, *A. D.* 1647, 240 commoners were absent. A fine of 20 l. set on those whose excuse was not allowed by the house. Resolved, *A. D.* 1709, that such members as absent themselves without leave, be reputed deserters of their trust, and neglectors of the duty they owe to the house and to their country.

Thus we see, inadequate representation, and long parliaments produce in our members of parliament a contempt for the people; neglect of instructions, and refusal of responsibility; put families upon setting up for legislators from generation to generation, so that ten persons in one family may be members at the same time, and it has been found, that individuals have sat 30, 40, and 50 years in the house. Inadequate representation is one cause, why the members cannot be supposed even to know the sense of the people, as they

<sup>a</sup> *Cic. DE LEGIB. III. Liv. III. 38.*

<sup>b</sup> *STAT. AT LARGE, I. 82.*

<sup>c</sup> *Ibid. 333.*

<sup>d</sup> *Ibid. 698.*

<sup>e</sup> *PARL. HIST. IX. 298.*

<sup>f</sup> *Ibid. xvi. 317.*

<sup>g</sup> *DEB. COM. IV. 139.*

they are not chosen by the generality of the people; but by a *handful*. Inadequate representation deprives the greatest part of the people, both in number and property, of their *weight* in legislation, and gives it up, as a *monopoly*, into the hands of a few. It is the original cause of the commons assuming exorbitant *privileges* to the disadvantage of the people; of their *prosecuting* and imprisoning their constituents; of *concealing* from the people, their creators, the *transactions* of their house; of their *absenting* themselves and *neglecting* the business of the nation, &c.

## BOOK V.

## Of Parliamentary Corruption.

## CHAP. I.

*Of the Origin, Funds, and Materials of Corruption.*

**T**WO weaknesses in human nature have produced bribery, corruption, and many other wicked arts; I mean, the love of *power*, and the love of *money*. In antient times men in superior stations were drawn into many of their bad practices by the *former*. The latter is *our* disease, and a lousy disease (I ask the reader's pardon) it is. For if there be a vice incompatible with any degree of *magnanimity*, greediness of money is that vice.

It is difficult to exclude corruption. Where there is any thing worth striving about, such creatures as men commonly are, will use indirect means for attaining it.

Undue influence in elections for offices prevailed at *Rome* so early as the 458th year from the building of the city<sup>a</sup>. Which occasioned the making a law to prohibit canvassing for votes.

But the *difficulty* of excluding corruption is no *reason* for giving over all *endeavours* to abolish it; any more

<sup>a</sup> ANT. UNIV. HIST. XII. 44, 114.

more than the *difficulty* of living a *virtuous* life amidst the various temptations, to which our frail nature is exposed, is a reason for our giving over all endeavours to regulate our conduct by the strict laws of *morality*. On the contrary, we *must resolve* to live a life of virtue, however *difficult* it may be, or we are *undone* as *individuals*; and we must root corruption out of the state, or we are undone as a *nation*.

*Aristotle* observes, Οὐ γὰρ ἀνοροί, κ. τ. λ. That men in *low* circumstances did not, in his time, aspire after places of power and trust, because they were *unprofitable*, and they could not afford to neglect their own private affairs, to attend on the public; and that men of *fortune* only could properly fill those employments, because they were under no temptation to plunder their country. In our times, who have no idea of serving the public for *naught*, we see all men, *rich* and *indigent*, striving who shall obtain the greatest share of the public offices, because they are all *lucrative*, and those whose fortunes are the *largest*, find them still too *small* for their *extravagance*, which produces the continual *scramble* we see.

The *Polish* noblesse consider their votes, for king, in the same manner as the inhabitants of our rotten boroughs do theirs for members of parliament, that is, as part of their *fortune*. But the *wickedness* of our electioneering is tenfold beyond that of the *Palace*. For it is no great matter who is king of *Poland*; because he has no power to do *mischief*; whereas our parliament has a power so *transcendent*, says judge *Blackstone*, that it is impossible to fix its *limits*. Therefore, to vote for a candidate, who gives a *bribe*, is selling our country to a man, who has proved himself a *knave*,  
and

and giving him power to do infinite mischief, for which he is not *responsible* or *punishable*.

Bad ministers, in our times, thrust themselves into power chiefly with a design of filling their *pockets*, and advancing their families and friends. And it is much to be lamented, that there is such ample *opportunity* for them to gratify their exorbitant desires. It is universally allowed, that a *British* ministry has the disposal of *several millions* annually of the public money. And the reader may judge what opportunity there must be for them to chip off fragments and corners from such prodigious masses, without the public's being ever acquainted with facts in so particular a manner as to *convict* a minister, or his tools, of the plunder they have committed.

As parliament is the natural *check* upon the wicked measures of *kings* and *courts*, parliaments must be *managed* to obtain their *connivance* at the proceedings of kings and courts. Therefore in former times the court not being possessed of the necessary funds, *wheedled*, or *bullied* them; now they make use of (what they think the surer means, *viz.*) *bribing* and *buying* them. And our ministers, since the revolution, have carried this liberal art so far, as to study no other system of politics, or government, than finding out *proper* men for their purpose, and filling the house of *commons* with them; and the whole difference between one ministry and another, is that one *junto* has a better knack at *managing parliaments* than another.

The chief materials, by which a minister keeps up an ascendancy in parliament, are, 1. The prodigious sums of public *money*, of which he has the disposal. 2. The innumerable *places* in the customs, excise, salt-duty, &c. and in the navy, army and church, the

the greatest part of which are at the disposal of the minister.

Latter times have thrown into the ministerial scale a weight *unknown* to former ages ; I mean the *national debt*. The *anxiety* of the public creditors, the proprietors of the funds, about public *credit*, is a powerful cause of their shewing a *reluctance* against all proposals for salutary *alterations*, or *restorations*. But their reasonings on this subject are not sounder than it would be for the inhabitant of a crazy building to oppose all repairs, and to insist, that the best way for *preventing* his mansion from coming in ruins upon his head, is to *let it fall*. Of which more fully hereafter.

The revenue of the *civil list*, which is nominally 800,000 *l. per annum*, but, by means of a demand from time to time of half a million to pay off its pretended deficiencies or debts, is really near a million (in the last reign it often exceeded a million) must throw a *prodigious power* into the hands of those who have the disposal of it.

A million *per annum* would maintain 200 dukes, at 5000 *l.* a year each, or 250 earls at 4000 a year each, or 1000 gentlemen at 1000 *l.* a year each. It would support arts, manufactures, and commerce to the inconceivable advantage of the public, &c.

But the *civil list* revenue is not reckoned above one *third* part of what a minister has in his disposal. It is not therefore to be wondered, that a minister has great influence in parliament. If one considers into how many purses, of 100 guineas each, the prodigious sum of three millions may be divided, at first glance one would conclude, that a minister could give such a purse to every man upon the island.

The royal prerogative has been greatly curtailed since 3 *Car. I.* the date of the petition of right.

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Star-chamber, and high commission court abolished, with martial law, and the prince's power of levying taxes without parliament; disuse of the forest laws; abolition of military tenures, purveyance, and pre-emption; the establishment of the *habeas corpus* act; the act for frequent parliaments; the assertion of the liberties of the people by the bill of rights, and act of settlement; the exclusion of certain dependents on the crown from seats in parliament; the independency of the judges; the restraining of the king's pardon from being pleaded to parliamentary impeachments; the dependency of the crown on parliament, by its being stripped of its antient properties, &c.—these, and other entrenchments on the regal power and prerogative would seem sufficient to clip the wings of kings, and ministers, and to secure the state against the innumerable evils of corruption. But what avail these seeming enlargements of our liberties, if we consider (as even judge *Blackstone*<sup>a</sup> himself, no unreasonable complainer, observes) that though the *appearance* of court-power is taken away, the *reality* remains, and is perhaps *greater* than under *Jam. I.* only it shews itself now in the milder and less startling shape of influence, instead of that odious and formidable one, of prerogative;—an influence, however, to considerate minds not the *less dreaded* on account of its apparent gentleness. Let it be considered, that our monarch's revenues being settled for life, a rapacious and corrupt court (for what do men generally propose by going into court, but filling their pockets?) has the disposing of the greatest part of a million a year, *civil list* revenue. Let it be considered, what a multitude of *officers* created by, and removeable at

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<sup>a</sup> COMM. I. 334.

the pleasure of the court, are employed, in raising 10 millions a year in taxes, customs, excises; commissioners, and innumerable officers in every port of the kingdom, nay at every creek into which a smuggling boat can be thrust; commissioners of excise, and their numerous subalterns, in every inland district; postmasters, and their servants in every town, and upon every public road; commissioners of stamps, and distributors; officers of the salt-duty; surveyors of houses and windows; receivers of land-tax; managers of lotteries; commissioners of hackney-coaches; besides frequent *accidental* opportunities of conferring favours, as by preference in *loans*, subscriptions, *tickets*, remittance of public money, &c. which attaches those most, whose attachment is the most desirable to the court, I mean, the opulent, and *leading* part of the people; to which add the prodigious influence the court gains by having the power of *officering* an army of above forty thousand men; to say nothing of the formidable *force* of such a body of disciplined men against a flock of sheep, I mean the *helpless* people. This dreadful army, the court-sycophants pretend is kept up only from year to year; but it is universally looked upon as on a footing equally certain with the army in *France*. Accordingly gentlemen bring up their sons as regularly to the army, as to the church. These forty thousand men are paid by the *court*, raised by the *court*, officered by the *court*, commanded by the *court*. Add to all this, that the court must have innumerable ways of misapplying the public money to the purposes of gaining undue influence, which even the most *faithful* and *upright* parliament could not detect. And what then must be the case, if we suppose *parliament* itself (the only constitutional *check* on a corrupt court) a *swarmer* in the plunder of the people,

and

and therefore interested to *conceal*, or connive at the ravages made by a profligate court.

‘ As we have annually increased our *funds* and our *taxes*, we have annually increased the *power* of the *crown*, and these funds and taxes being established and laid for *perpetuity*, or for terms equivalent to *perpetuity* in the sense here intended, this increase of power must not only *continue*, but still *increase*, as long as this system of economy subsists. How this increase of power arises from the increase of funds and taxes, and the influence of the crown grows in proportion to the burthen on the people, heavier; hath been explained so much in the debates on a late detestable occasion [Walpole’s excise scheme] that the less needs to be said on the subject here. If we consider in the increase of taxes, first, the increase of *officers*, by which a vast number of new dependants on the crown are erected in every part of the kingdom, (dependents as numerous, and certainly more prevalent, than all the tenants and wards of the crown were antiently) and, secondly, the *power* given to the treasury and other *inferior* officers, on account of these taxes, which are at least as great and as grievous in this *free* government of ours, as any that are exercised in the most *arbitrary* government on the same occasions; if we consider this alone, we shall find reason sufficient to conclude that, although the power of prerogative was more open and more *noisy* in its operations, yet the power thus acquired is more *real* and may prove more *dangerous*, for this very reason, because it is more covered and more *silent*. That men began to see, very soon after the revolution, the danger arising from hence to our constitution, as I said above, is most certain. No less than *seven* acts were made

' in king *William's* reign to prevent undue *influence*  
 ' on elections ; and one of the acts, as I remember,  
 ' for I have it not before me, is grounded on this fact,  
 ' that the *officers* of the excise had frequently, by  
 ' *threats* and *promises*, prevailed on electors, and abso-  
 ' lutely *debarred* them of the *freedom* of voting. What  
 ' hath been done, or attempted, since that time, in  
 ' the same views, and what hath been done, or at-  
 ' tempted, both in the reign of king *Will.* and since,  
 ' to prevent an undue influence on the elected, as  
 ' well as on the electors, I need not recapitulate.  
 ' They are matters of fresh date, and enough known.  
 ' Upon the whole, this change in the state and pro-  
 ' perty of the public revenue hath made a change in  
 ' our constitution not yet, perhaps, attended to suf-  
 ' ficiently ; but such an one, however, as deserves  
 ' our utmost attention, since it gives a power *un-*  
 ' *known* in *former* times to one of the three estates,  
 ' and since public liberty is *not guarded* against the  
 ' *dangers* that may arise from this power, as it was,  
 ' and now is more than ever, against the dangers  
 ' which arise from the powers formerly possessed or  
 ' claimed by the *crown* <sup>a</sup>.'

' That the business of most kingdoms has been  
 ' ill managed, proceeds from this ; it imports the  
 ' *lower* rank of men only, and the *people* (whose cries  
 ' seldom reach the prince, till it is too late, and till  
 ' all is past remedy) that matters should be *frugally*  
 ' ordered, because taxes must arise from *their* sweat  
 ' and labour. But the *great* ones, who heretofore  
 ' have had the prince's ear and favour, or who hoped  
 ' to have him in their possession, were swayed by  
 ' another sort of interest ; they like profusion, as hav-  
 ' ing

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<sup>a</sup> DISSERT. ON PARTIES, 223.

'ing had a prospect to be gainers by it, they can easily set their account even with the state; a small charge upon their land is more than balanced by a great place, or a large pension.'

See the lord keeper *North's* account of abuses in the conduct and disposal of the public money in the time of king *Ch. II.*<sup>b</sup> Those who, in our times, are the conductors of the same kind of dirty work, may compare the modern ingenious ways and means with those of their worthy predecessors.

Among others, pretended want of money in the treasury, in order to have a pretence for giving an exorbitant price for necessaries. Lending the crown at 8 per cent. money which was raised at 5 and 6. Paying with the public money, pretending it to be private, and taking interest. Depreciating the public debts and funds, buying them of the holders at half their worth, and afterwards by interest getting them paid in full. Pretending to give up all power in recommending to places for a consideration, and then insisting on recommending still, and so getting both ways. Rolling over losses upon the crown, or public, while the gain was to sink into private pockets. A father stopping a large sum in his own hand, which was to have been paid the public creditors. Before he can be brought to account, he dies. The money sinks into the pocket of his heir. He obtains a pardon of all his father's debts. Gross frauds in office found out. Then new offices and salaries set up as checks. The new prove as great knaves as the old, and form a scheme of collusion and mutual understanding. But the public pays for all, and the power of the court is strengthened. An old placeman begs

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leave

<sup>a</sup> *Daven.* II. 262.

<sup>b</sup> *Dalrymp.* MEM. II. 84.

leave to sell. Pockets the money, and by and by, through interest, gets a new place *gratis*. Extravagant men squander their own money in their public employments of embassadors, governors, &c. and charge the public with more than they have really spent, while what they really spent was 10 times more than necessary. The business of old offices transferred to new: but the profits of the old still kept up, though become sinecures. An old servant of the public retires upon a pension. He who succeeds him, by interest, gets it continued to him. Another gets an addition to his salary, and then sells his place for a great deal more than it cost him, and so an additional load is laid on the public: for the addition must be continued, because the place was bought. An annual sum is granted by the public for a public use, as keeping up a harbour, or the like. A private man, by interest, gets a grant of the job; the public concern is neglected, and the public pocket picked. Crown lands perpetually begged and given away to strengthen the court interest. The crown constantly kept in debt, and parliament solicited to pay those debts occasioned merely by the voracity of the court. Commanders of fleets order a superfluous quantity of stores. By collusion between them and the store-masters, this superfluous quantity is sold again to the king, and the money sunk in their pockets. Sometimes the store-masters gave receipts for more than was received into the king's stores, and the money was divided among the plunderers. The king's works done by the day, whereas it would have been cheaper by the great. Money pretended to be coined *gratis*. Lists of large sums newly coined produced. But the contrivance was to make the pieces unequal, and then the too heavy pieces were carried  
back

back to the mint, and the profit sunk in private pockets, &c.

*Secret service* is a huge cloak thrown over an immense scene of corruption; and under this cloak we must not peep. Our court-men tell us, there must be large sums expended in this way, and those sums cannot be accounted for; because the *services* done for them must never be *known*. But we find, that the commons, *A. D.* 1708, addressed queen *Anne* for accounts of pensions paid for *secret service* to members of parliament, or to any persons in trust for them; and that 'the queen ordered said account to be laid before the house.'

*Contracts* are a great fund of ministerial influence. It is well known, that our ministry do not accept the most *reasonable* offer; but the offer which is made by those, who have the greatest *parliamentary* interest; and that in war time, every man, who *furnishes* for the government, is *enriched*; in *France* the contrary; which shews, that we manage our public money much *worse* than the *French* ministry do theirs. In the late war it is notorious, that several of our *purveyors* and *commissaries* got estates sufficient to set them up for earls and dukes. But as *Burnet*<sup>b</sup> says, 'the regard, that is shewn to members of *parliament* among us, causes that few *abuses* can be *inquired* into, or *discovered*.'

As to lotteries, if 'a minister has it in his power to give the subscription of 4 or 500 lottery tickets every year to single members, he has an annual means of bribing the house without danger of detection.' It was alledged in the house of commons

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<sup>a</sup> *DEB. COM. IV. 119.*

<sup>b</sup> *HIST. OWN TIMES, III. 279.*

<sup>c</sup> *DEB. COM. IX. 282.*

by Mr. *Seymour*, that in the lottery of 1769, 20,000 tickets had been disposed of to *members of parliament*, which sold for near 2*l.* premium each<sup>a</sup>. This was a scramble of 40,000*l.* among the members at one dash. We need not wonder, that lotteries are a *favourite* species of ways and means. Mr. *Seymour*, A. D. 1771, moved, that the names of the subscribers to the then present lottery should be laid before the house.

In a committee on the lottery-bill, Mr. *Cornwall* moved for leave to bring in a bill to prevent any *member's* having more than 20 tickets, in his own name; and that those who had subscribed for more, should refund into the exchequer the sums so gained by them<sup>b</sup>. He observed, that 200 annual tickets put 400*l.* a year into the pocket of a member, which is better than 800*l.* a year by a *place*; because it did not expose him to the expence of being *re-elected*, nor to expence, or duty, attending the place [for *some* places are not *sinécures*].

## CHAP. II.

### *Of Corruption in Elections.*

OUR courtly gentlemen labour to persuade us, that parliamentary corruption has never been that *formidable* evil our patriots have represented it. Facts are stubborn. They will speak; and they will not always speak as our sleek courtiers would wish them. If they will speak, let them speak. *Magna veritas, et prævalebit.*

<sup>a</sup> DEB. COM. IX. 292.

<sup>b</sup> Ibid. 299.

Ministerial artifice, for corrupting parliaments, has been applied in two ways, 1. To *over-ruling elections*, and 2. To *byassing* the votes of *members* in the *house*.

To shew the good people of *Britain* how their great and weighty concerns are managed, I will give a brief account of some remarkable controverted elections, and facts relating to that subject, which have occurred to me in the course of my reading, with reflections.

‘The duty of a member of parliament’ (says the brave *Lucas* of *Ireland*) ‘is infinitely the *most important* that can devolve upon a subject<sup>a</sup>.’ Mr. *Locke*<sup>b</sup> ranks it among those breaches of trust in the executive magistrate, which amount to a *dissolution* of *government*, ‘if he employs the force, treasure, and offices of the society to *corrupt* the *representatives*, or openly to *pre-engage* the *electors*, and prescribe what manner of persons shall be chosen. To regulate candidates and electors, and new model the ways of election, what is it, but to *cut up* the *government* by the *roots*, and poison the very fountain of public security.’

‘Some call the attendance in parliament a *burden*,’ says Sir *Thomas Littleton*<sup>c</sup>. ‘If it be a burden, it is such a burden as some men spend a great part of their estates for, as if it was a *privilege*.’

In modern times, every body is rushing into the house of commons. In former days, it was a privilege to be exempted from the burden of being elected, or contributing to the wages of members<sup>d</sup>. Does not this fact alone demonstrate, that those

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who

<sup>a</sup> LOND. MAG. 1767, p. 565.

<sup>b</sup> On Gov. p. 2. § 222.

<sup>c</sup> DEB. COM. III. 381.

<sup>d</sup> See *Ellysge*, 79.

who strive to get into the house, intend the filling of their pockets merely? It was as much, and more, an *honour* to be in parliament, in former times, than in ours; but it was not so *lucrative*. Does any man *buy* without a view of *selling*? And how are the buyers of seats in parliament to re-imburse themselves; but out of the plunder of a wretched and almost bankrupt nation? 'D—n you and your instructions too,' (said a worthy member in answer to his constituents recommending to his attention the public interest) 'I have *bought* you, and I will *sell* you, by G—'.

Candidates for seats in the house of commons pretend that they lay out their thousands in electioneering, in order to obtain—not a place or a pension—but *honour*, and an opportunity of *serving* their country. But do they seriously expect any man to believe this, who sees them trampling upon honour and honesty, bribing, gambling, rooking? Is that honour worthy of the name, which is got by the most dishonourable means? Is it *serving* our country to *debauch* our country? When those men get into the assembly of legislators, what do they for their country? What *grievances* have been *redressed* by the innumerable multitude of members of parliament, who have, since the revolution, obtained seats in the house by *unwarrantable* means? What greater grievance can be imagined than the continuance of this ruinous practice? I say nothing of *damnation*, as a consequence of debauching a whole people, and promoting the interest of the enemy of mankind in the world; though I might say, that our bribing candidates ought, upon every *prudential* principle, to be *absolutely certain* that no such consequence can follow; and that either there is no future state, or that men are not accountable for their actions, and that

that their moral characters are (as *Epicurus* and *Lucretius* teach) entirely indifferent to the Supreme Governor of the universe. But of this more hereafter.

*James I.* at his accession proposed, that undue elections and returns should be punished by fine: For gross and wilful neglect, the place to forfeit its liberties to the crown; and every person sitting contrary to law, to be fined and imprisoned\*. He directs the electors what sort of members to chuse, and threatens them with loss of their privileges in case of disobedience. Never done before\*. He advises the electors of the counties for the new parliament, *A. D.* 1620, to chuse only such gentlemen as are *guides* and *lights* of their own countries; men, who led *honest* and *exemplary* lives; no *bankrupts*, or discontented persons, who want to swim in troubled waters. The bad effect of chusing unfit persons, he says, is visible, as bankrupt and needy men will desire long parliaments for their own protection\*.

In the directions to the electors of the times of *Charles I.* there are some very good advices, and useful for all times, as to choose 'men of parts, courage, and expression, professors of religion, exact in all duties, holy towards God, and just towards all men, free from covetousness, oppression, and partiality; not dependent: for such cannot be *theirs* farther than *another* will permit. To chuse such as have estates in their counties, not such as are to get estates by their country's ruin; such as have been opposers of illegal taxes, not those who have received the public money,

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\* *PARL. HIST.* v. 8.

<sup>b</sup> *ACT. REG.* iv. 210.

<sup>c</sup> *PARL. HIST.* v. 310.

‘ money, and given no account; to judge of candidates by their lives and practices, &c.’

However the *Walpole* family has acted, Mr. *Horace Walpole* writes well on this subject, as follows: ‘ I hear, that dissatisfaction and dissensions have arisen among you, and that a warm contest is expected, and I dread to see in the uncorrupted town of *Lynne* what has spread too fatally in other places, and what I fear will end in the ruin of this constitution and country,’ &c. And afterwards, ‘ My votes have neither been dictated by favour nor influence, but by the principles on which the revolution was founded — the principles to which the town of *Lynne* has ever adhered, and by which my father commenced and closed his venerable life’.

The *Irish* parliament has lately, *A. D.* 1768, made some good resolutions, such as, That the election-oath ought to be administered to the *candidate*, not the elector; and that there ought to be no guzzling at elections.

Judge *Blackstone* very justly regrets the ignorance of the common law, which appears in many members of parliament. Men are prepared for all other employments by being previously qualified; but a country fox-hunter thrusts himself into the house of commons in *puris naturalibus*. He knows, that, generally speaking, there will be nothing required of him, but to take care, that he do not (like *Sir Francis Wronghead* in the play) cry No, when he should have cried Aye.

‘ Let it ever be remembered, and seriously considered, that every county, or borough, when they choose

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<sup>a</sup> PARL. HIST. XIV. 307.

<sup>b</sup> Lett. from Mr. *Horace Walpole*, son to *Sir Robert Walpole*. LOND. MAG. 1767, p. 281.

‘choose their members, put into their hands no less than the keys of all their treasure; and not all *their* treasure only, but the property of *every* man in the *British* empire; out of which they can take what they will, and when they will, and as such are a very desirable partnership for a king.’

A humorous writer in one of the news-papers proposed, at the commencement of the last general election, that as it is vain to think of excluding bribery, it might be a considerable improvement, if we were to lay aside, at every general election, all canvassing, eating, drinking, kissing voters wives and daughters, quarrelling and idleness, and that the people should go on with their business as usual, till the very day came. That an act should be made abolishing all the laws in being against corruption at elections, and that from and after such a day, it should be lawful for the contesting candidates to go to the place of election with *purses* of guineas in their hands, and fairly *purchase* the voters, openly bidding against each other as at an auction.

We have an election-oath, by which every elector if called upon, is obliged to swear, that he has received nothing for his vote. But the intention of it (though it were likely to be otherwise useful) is most commonly defeated by the *candidates agreeing to waive the ceremony*. Who can give a reason why every member is not at his first *entrance* into the house obliged, at the hazard of the punishment of perjury, to swear, that he has taken no *illegal* steps to gain his election, and at the *end* of every session, that he has not been *influenced* by the court or ministry in any one *vote* he has given?

In

In the year 1754, Sir J. Barnard moved the house of commons for a repeal of the law, which obliges electors to take the bribery-oath. Experience proves, he said, the *inutility* of the oath, for preventing bribery, and shews, that it only opens a door for *perjury*. The motion was over-ruled <sup>a</sup>.

It is supposed, that many prime ministers, lords, and others, desirous of having influence in the house of commons, have, to evade the act of *Anne*, furnished candidates with *mock qualifications* to be returned after their election. And those wretches have solemnly sworn, upon the strength of a bit of paper to be given up *next day*, that they were possessed of estates of 600 *l.* a year for *life*, clear of all incumbrance, while they were many hundreds, perhaps thousands of pounds, *worse than nothing*, and only hoped to *repair* their ruined fortunes by *prostituting* their votes to a villainous minister.

If a borough choose him, not undone. *Pope.*

We find, the mystery of iniquity began early to work. *Edw. III.* crowned, *A. D.* 1327, endeavoured to pack the parliament, that he might obtain the larger supplies. He puts the sheriffs and other placemen upon influencing elections. The knights of the shires insist, that this abuse be redressed <sup>b</sup>.

Sheriffs were tampered with to make false returns of members, under *Rich. II.* <sup>c</sup> The commons begun to be of consequence. And the king's having *few* places, pensions, contracts, lotteries, military offices, &c. to bestow, they had no *byass* to draw them aside from

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<sup>a</sup> *Tind. ix.* 484.

<sup>b</sup> *Hume's Hist. ii.* 176.

<sup>c</sup> *PARL. HIST. i.* 426.

from their country's interest, and therefore were *graven* *blasphemy* to the court.

*Rich. II.* changed all the sheriffs in the kingdom to have a parliament to his mind, and the mayors and magistrates in cities and boroughs<sup>a</sup>. Such is the fatal power of kings! It is erroneously remarked by historians, that this was the *first* instance of the court's tampering with elections, and proved *Richard's* ruin. It could not have been done by direct bribery in those times, when there were few *places*, &c. And the grants of forfeited estates, crown lands, purses of money, &c. would go but a short way. 'It is impossible' (says *Rapin*<sup>b</sup>) 'that a free-spirited nation should see their liberties in the hands of a set of men, whom themselves have not freely chosen, without desiring to be freed from such an oppression.'

The court proposed 'to call a parliament, *A. D.* 1387, the election whereof should be so managed, that the members should be all at the king's [*Rich. II.*] direction.' But, in those days they had not the means of electioneering. Accordingly little or nothing was done<sup>c</sup>.

*Rich. II.* and *all* our tyrants (I wish I could say *only* tyrants) since, have broke into the freedom of election, and of voting. If this does not shew the importance of an independent parliament, nothing will.

A sheriff was fined and imprisoned, *A. D.* 1401, for a false return of a member for *Rutland*<sup>d</sup>.

*Hen. VIII.* was freed from the debt of a loan, without payment made, by a bill in parliament, which bill is said, by *Hall*, to have been obtained by corrupt means.

<sup>a</sup> *Hume*, II. 261.

<sup>c</sup> *Rapin*, I. 464.

<sup>b</sup> I. 469.

<sup>d</sup> *PARL. HIST.* II. 82.

means. And it is affirmed, that art was used in making elections for parliament, in order to obtain a confirmation of *Henry's* divorce.

A speaker of the commons, whose name is not mentioned <sup>a</sup>, takes notice of a certain duke's having endeavoured to influence an election, before the time of *Phil.* and *Mary*, and of a counsellor at law in their time, who had made an attempt of the same kind; but was disappointed. He wishes all the electors of his time (*A. D.* 1571.) were as staunch.

In the worst times, parliamentary corruption has prevailed the most. 'All sorts of artifices, frauds, and violences were used in queen *Mary's* reign, for 'making parliaments.' All the magistrates in cities and counties were changed from protestant to popish. False returns made, and allowed by a popish parliament <sup>b</sup>. Queen *Mary* expressly ordered the sheriffs to return papists <sup>c</sup>.

*Tho. Long*, returned member for *Westbury, Wilts.*, *A. D.* 1571, was so weak a man, that the house, wondering, how he came to be elected, questioned him upon it; and found, that he had been guilty of the foul fact; having bribed the mayor of the town, and one *Watts*, with no less a sum than 4*l.* The house ordered Mess. mayor and *Watts* to be sent for in custody, and to return the wages of iniquity, like honest men; and fined the corporation 20*l.* but we hear no more of the matter afterwards <sup>d</sup>.

*A. D.* 1604, under *Jam. I.* there was a famous contested election between *Goodwin* and *Fartescue*, for the county of *Bucks.* *Goodwin* was declared, in the house

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<sup>a</sup> *PARL. HIST.* IV. 134.

<sup>b</sup> *Ibid.* III. 285.

<sup>c</sup> *Ibid.* 311.

<sup>d</sup> *Ibid.* IV. 154.

of commons, duly elected. The lords desired a conference. The commons were startled at this interposition. The lords laid it upon the king. The commons begged the king to be tender of their privileges. The king insists on their holding a conference with the judges, if they would not with the lords. The commons remonstrate. The king proves (in character) obstinate. The commons, with much reluctance, yield. *Goodwin* shews himself willing to drop his pretensions. His election was held void by the clerk of the crown, because he was an outlaw. The commons decline giving the lords any account of their proceedings, but proposed to send messages to the king; who, in fact, had no more to do with the matter, than the lords<sup>a</sup>. The commons said, the proceedings could not now be reversed. They produced a precedent, 27 *Eliz.* of a bill brought down from the lords, and rejected at the first reading. The lords asked why the determination of the house could not be reversed. The commons did not hold themselves obliged to answer that question; which was the reason of their refusing the conference; though they declared themselves ready to confer with the lords on any proper subject which might arise, where their privilege was not concerned. The lords sent again to the house, that the king thought himself concerned, that there should be a conference. The reason of the king's interesting himself so particularly in this election, was, his thinking his direction (which he had no right to give in an *authoritative* manner, though undoubtedly it was sound *advice*) not to elect any outlaw, was despised, in the house's declaring *Goodwin* duly elected. The commons, startled

<sup>a</sup> PARL. HIST. V. 60.

at the king's insisting, consult what is to be done. At last they propose to wait on the king next day. Accordingly the speaker, and many members, attend the king. The speaker informs the king, that *Goodwin's* election was duly carried on, and consequently *Forrescue's* void. That the outlawries against *Goodwin* were only for debt; and that he had sat unquestioned in several parliaments since the outlawry had passed upon him; and that, besides, it was not strictly pleadable, because of deficiencies in formality. They mention *Smith*, 1 *Eliz.* *Vaughan*, 22 *Eliz.* three others 35 *Eliz.* *Killigree*, who had 52 outlawries against him, and *Harcourt*, who had 18; who were all admitted to privilege. The king holds all these precedents for nothing. The house, he said, derived its privilege from him, which therefore ought not to be turned against him. He pretended, that the court of chancery ought to judge of elections and returns. Quoted a precedent of 35 *Hen. VI.* when all the judges agreed, that outlawry is a cause of expulsion from the house. The king still insists on a conference between the commons and judges, and that the house report the result to the privy-council. The commons propose to make a law, that no outlawed person hereafter sit in the house, and to confer with the judges, not to reverse what they had done, but that they might profit by the judges learning, and that they might satisfy the king. It was said, that there was no precedent of a member's being deprived of privilege on account of outlawry. Others of the commons were strong against all conference. That parliament had contradicted the opinions of the judges concerning outlaws, since the time of *Hen. VI.* They sent the king their reasons against all conference. They insisted, that till 7 *Hen. IV.* the writs for election were returned to parlia-

parliament, not to chancery, and that the power of hearing and determining concerning elections was always supposed to be exclusively in the house. Of which, they brought many precedents, and alledged, that if the chancery were to judge concerning elections, they would soon be masters of the commons. They made apologies abundantly for offending the king. 'Not doubting, say they, though we were  
' but a part of a body, as to the making of new laws,  
' yet for any matter of privileges of our own house,  
' that we are, and ever have been, a court of ourselves,  
' of sufficient power to discern and determine without  
' their lordships, as their lordships have always used  
' to do for theirs without us.' The king still objects to the absurdity of giving legislative power to an outlaw. They answer, that, notwithstanding precedents for outlaws sitting in the house, they were determined, in compliance with his majesty's sense, to make a law for preventing it for the future; but that this law cannot operate against *Goodwin*, being *ex post facto*; besides the want of formality in his outlawry, which rendered it null and void, and its being only upon mean process; and two general pardons issuing since it passed upon him, which, at any rate, would have cleared him. The commons meanly request the intercession of the lords with the king, as having nearer access to his person; and send a committee of their house to them with their apology to the king. The lords ask the committee, if they may read the paper? The committee agrees. The lords ask, if they may amplify, explain, or debate, concerning any doubtful point? The committee answer, They have no warrant from the house for that. The paper is read. The speaker attends the king at 8 in the morn-

ing. Obligated to wait till 10. He reports to the house, that the king protested, he had the greatest desire to support their privileges. That the king desired and *commanded*, as an *absolute* prince, that there might be a conference between the commons and judges, in presence of his council; not as umpires, but to report to him the issue of the conference. The house is amazed. It was proposed by some, to petition the king to be present himself, and judge. A committee is appointed. The house orders, that the committee shall only insist on the support, and explication of the reasons already given, and not proceed to any other argument, or answer. Sir *Francis Bacon*, in his report, flatters the king's wisdom shamefully. It was observed, that there had been no such concession made by the commons, to any king since the conquest. It was disputed, Whether the house of commons could properly be called a court of record. The king proposes, that neither *Goodwin* nor *Fortescue* sit in the house. It was accordingly resolved, that both be set aside, and a new writ issued for *Bucks*. *Goodwin* voluntarily gives up his claim by letter to the speaker. The mean-spirited commons send a committee to thank the king for his decision. They flatter him indecently, and he swallows all with greediness. Thus ended this famous affair.

“The commons, *A. D.* 1641, says *Mrs. Macaulay*\*, had passed a vote, that they had sufficient cause to accuse the duke of *Richmond* as one of the malignant party, and an evil counsellor to the king for these reasons. That he endeavoured to have such members chosen as he should name. The interposal of peers in the election of commoners had been by several resolutions of the lower house, declared a breach of privi-

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\* HIST. III. 194.

privilege; and continues, says Mr. *Hume*<sup>a</sup>, to be condemned by the votes of the commons, and universally practised throughout the nation.

In the time of *Charles I.* *Wray*, *Langton* and 2 *Tre-lawnies* were committed by the commons for corrupt proceedings at elections<sup>b</sup>.

There was great corruption in the court for packing the parliament, *A. D.* 1658. 80 letters were written from *Whitehall*. One *Howard*, a papist, brother to the earl of *Arundel*, boasted that he had sent 24 members to parliament. Tables were kept at *Whitehall* at the public charge by order of *Richard Cromwell*, says *Whitlocke*<sup>c</sup>. 14,000 *l.* spent by the court at the election for *Northamptonshire* in the time of *Charles II.*<sup>d</sup>.

The case of *Denzil Onslow*<sup>e</sup>, tried at the assizes at *Kingston, Surry*, *A. D.* 1681, before the lord chief justice *Pemberton*, was remarkable. He had brought his action in the court of common pleas, complaining that another was returned instead of himself to parliament, 31 *Car. II.* after the returning officer had returned him as duly elected. The officer's plea for making a second return, was, that a person elected must be free, resiant, and dwelling within the borough. But the court set that good antient statute aside, because the universal corrupt practice had been otherwise, and, because, if none but *resiants* [inhabitants] could be chosen, the house would be filled with men below the employment. [This by the bye, shews the absurdity of the beggarly boroughs having representatives, because a representative ought certainly to be resident, and there cannot be found in such places men fit to sit in parliament.] Then the returning officer insists that

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<sup>a</sup> Vol. I. p. 312.<sup>b</sup> *Petyt's MISCEL. PARL.* 105.<sup>c</sup> *PARL. HIST.* XXI. 289.<sup>d</sup> *STATE TRACTS*, timeof king *William*, I. 340.<sup>e</sup> *DEB. COM.* III. 313.

some of Mr. *Onslow's* votes were bad. But this was not allowed. Others had received their burgage tenures, on the strength of which they voted, by fraudulent means, and only for the sake of the election. The jury gave 50*l.* damages <sup>a</sup>.

There was hardly a worse charge against *James II.* than his influencing elections <sup>b</sup>. Mr. *Locke* accuses him of a design to overturn the constitution, because he influenced elections. On this principle, how many hundreds of our *peers* might have been impeached of treason against the constitution; as it is well known, that they not only influence, but absolutely over-rule the elections in the greatest part of the boroughs; and it is notorious, that a very great majority of the house of commons is sent in by the boroughs. What can be imagined dangerous to liberty, if this dreadful, growing, aristocratical power be not?

Abominable were the proceedings at elections *A. D.* 1685. The new corporation charters had taken the election out of the hands of the inhabitants, and put it in those of the corporation exclusively, as a few are more obvious to bribery, than a great number. Thus arbitrary is the footing on which election has been put by kings <sup>c</sup>. Accordingly this parliament did almost whatever the king desired. They gave him a revenue of 2 millions, some say 2  $\frac{1}{2}$  annually for life; by which he was enabled to set parliaments at defiance; and crush all who opposed him <sup>d</sup>.

*Shaftesbury*, one of *Ch. II's* tools, renewed the exploded practice of the chancellor's issuing out writs to supply the vacancies in the house of commons <sup>e</sup>.

But

<sup>a</sup> DEB. COM. III. 317.

<sup>b</sup> See ST. TRACTS, time of K. *William*, I. 221, et passim. <sup>c</sup> *Rapin*, II. 745. <sup>d</sup> *Ibid.* 742.

<sup>e</sup> *Hume's Hist. STUARTS*, II. 228.

But it was voted that the writs were irregular, and the members elected were expelled <sup>a</sup>.

The borough of *Stochbridge* was convicted, *A. D.* 1693, of corruption at an election. A bill was brought in to disfranchise the borough <sup>b</sup>.

'We have been six days upon the *Westminster* poll, which is like to last as many more,' says secretary *Vernon*, in his letter of *Jan.* 13, 1701, to the earl of *Manchester* <sup>c</sup>. 'The house of commons' (says the same gentleman) 'has been taken up these three days with *Sheppard's* corrupting several boroughs for procuring elections <sup>d</sup>.'

There was much gross corruption practised in the year 1701, says *Burnet* <sup>e</sup>. Some of the contested elections were brought before the house of commons. Some of the persons elected were imprisoned and afterwards expelled. 'In these proceedings great party appeared,' [a majority in the house being tories] 'for when, in some cases, corruption was clearly proved against those of the tory party, and but doubtfully against those of the contrary side, that which was voted *corruption* in the latter [the whigs] was called *giving of alms* in those of the former sort. Thus, for some weeks, the house seemed to have forgot all the concerns of *Europe*, and was wholly employed in the weakening of one side, and in fortifying the other.'

The borough of *Hindon* was disfranchised, *A. D.* 1702, for bribery at an election, but no individual punished, because the damning bribe was given by a worthy tory <sup>f</sup>.

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<sup>a</sup> *Deb. Com.* i. 166.<sup>b</sup> *Ibid.* ii. 438.<sup>c</sup> *Cole's Mem.* p. 283.<sup>d</sup> *Ibid.* 345.<sup>e</sup> *Hist. Own Times*, iii. 358.<sup>f</sup> *Find. Contin.* i. 574.

Sir *Simon Harcourt* complains sadly of ill usage, in his election for *Abingdon*, *A. D.* 1708, reflecting severely on the house, and the wicked arts used against him, insisting to the last, that he was the legal member, by a clear majority, by the most fair estimation <sup>a</sup>.

*Bewdley* controverted election. The commons resolve to petition the queen, *A. D.* 1710, for the several papers relating to the charter of that borough <sup>b</sup>. Sir *John (Packington)* informs the commons that the queen had given orders for repealing *Bewdley* charter, and to lay before them an account of the prosecutions ordered by, or carried on at the desire of the crown, as requested by the house <sup>c</sup>.

‘Bribery and corruption in elections of all kinds,’ says a lord in the house of peers, *A. D.* 1734, ‘are now so universally complained of, that it is become highly necessary for this house to come to some vigorous resolutions against it, in order to convince the world that it has not as yet got within these walls. It has already, I am afraid, got too firm a footing in some other parts of our constitution; what is now proposed will not, I am afraid, be a sufficient barrier, but I am very sure, if something is not very speedily done, if some effectual measures are not soon taken against that deadly foe to our constitution, I say, I am sure that in a short time corruption will become so general that no man will be afraid to corrupt, no man will be ashamed of being corrupted <sup>d</sup>.’

In the year 1711, happened the famous dirty affair of *Walpole*’s expulsion for alienating 500 *l.* of the public

<sup>a</sup> *DEB. COM. IV. 111.*

<sup>b</sup> *Ibid. 172.*

<sup>c</sup> *Ibid. 176.*

<sup>d</sup> *DEB. LORDS, IV. 323.*

lic money (of which more fully elsewhere). His seat was declared vacant; 'because expelled the house for breach of trust, and notorious corruption, when secretary at war.' And it was resolved, that 'he was and is incapable of being elected a member to serve in parliament.' His antagonist, *Taylor*, was not allowed to be duly elected. The election for *Lynn* was therefore declared void<sup>a</sup>. It was thought a stretch of power, because *Walpole* was a stanch whig, and the torics were at that time very strong in the house. But they shewed modesty in refusing *Taylor*, elected by a minority. We have seen a parliament proceed in a different manner in the case of *Wilkes* and *Luttrell*; of which elsewhere.

At the election for the borough of *Bereafston* in the county of *Devon*, *A. D.* 1721, *Elliot*, a commissioner of excise, had taken upon himself to be the returning officer, contrary to law, which forbids any person belonging to the excise to meddle with elections. A motion made to address the king to turn him out, was put off<sup>b</sup>.

Sir *John Cope*, *A. D.* 1722, charged Sir *Francis Page*, a baron of the exchequer, with corrupting the borough of *Banbury*, in *Oxfordshire*<sup>c</sup>. *Page* appears clearly to have been guilty; but it was carried by a majority of 4, that he was immaculate<sup>d</sup>.

'There were seventy one contested elections the beginning of this parliament, *A. D.* 1734<sup>e</sup>.'

The house of commons made a resolution to hear no more contested elections, *A. D.* 1742. The number was so great, that the examining them was endless<sup>f</sup>. So that any man might be a member of that

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<sup>a</sup> DEB. COM. IV. 275.<sup>b</sup> Ibid. VI. 245.<sup>c</sup> Ibid. 275.<sup>d</sup> Ibid. 278.<sup>e</sup> Ibid. IX. X.<sup>f</sup> Ibid. XIII. 184.

parliament without having been either elected, or returned.

*A. D. 1722*, several lords protested on rejecting the bill for securing the freedom of election. 'Because the methods of corruption made use of in elections were grown to an height beyond the *example* of preceding times; as it was a blemish to the constitution, it deserved a parliamentary cure; and because the commons complained of this evil and desired their assistance, to point out proper remedies. Because a new election was coming, and those chosen might sit seven years; and the septennial act took its rise in that house. Because it was admitted in the debate, that the public money had been used, to influence elections; and *example* set by men in high office would spread its influence through all ranks; and that if gentlemen were to get into parliament by *bribery*, it must prove fatal to the liberties of the people.'

Lord *Sunderland* said, he had not intimated that the present public money had been used to influence elections. What he meant was only in king *Charles's*, and king *James's* time<sup>a</sup>.

It was ordered, said protest should be *expunged*. Some lords protested against expunging it; and gave the following reasons. 'That they were desirous that their reasonings on the mischiefs of bribery and corruption, might appear to posterity. That the practice of expunging reasons was not *ancient*. That expunging many reasons, under one general head, was unfair, and not countenanced but by one precedent on their books<sup>b</sup>.'

Mr.

<sup>a</sup> *Deb. Lords*, III. 227.

<sup>b</sup> *Ibid.* 231.

Mr. *Hutchinson*, in his speech on the bill for securing freedom of elections, A. D. 1722<sup>a</sup>, has the following passages.

‘ It is too notorious, what attempts are now carrying on to invade the freedom of your approaching elections; in some places by *threats*, to fill and over-awe them with the quartering of *troops*, if they do not comply; in others by the corrupt solicitations of *agents* and undertakers employed by those, who from the incredible sums which are dispersed, one must imagine, have more than private purses at their command. But what, in God’s name, can all this tend to? What other construction can any man, in common sense, put upon all these things, but that there seems to have been formed a design, by violence and oppression, first to *bungle* you, and to make your necks pliable to the yoke that is designed for you, and then to finish the work by tempting the *poverty* and necessities of the people to sell themselves into the most abject and detestable slavery, for that very money, which had been either unnecessarily raised, or mercilessly and unjustly plundered and torn from their very bowels? And thus you may be in a fair way of being subdued by your *own* weapons. Nor can I imagine what inducement men can have who run from borough to borough, and purchase their elections at such extravagant rates, unless it be from a strong expectation of being well repaid for their *votes*, and of receiving ample *recompence* and rewards for the *secret services* they have covenanted to perform here. In this situation it is high time for gentlemen to put themselves upon their guard, and if it be not already too late, to endeavour to put a stop to the course of those evils, which are otherwise  
‘ likely

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<sup>a</sup> DEB. COM. VI. 272.

‘likely so soon to overtake them. It is for these  
‘purposes that this bill is now before you, and I  
‘hope it either is, or by your assistance will be made,  
‘such as may fully answer the ends for which you  
‘were pleased to order it to be brought in.’——‘We  
‘know, that persons heretofore have not only bribed  
‘the returning officer, but have even *indemnified* him  
‘against the whole *penalty* of 500 *l.* rather than not  
‘get the return, right or wrong, in favour of them-  
‘selves; depending, I suppose, upon the strength  
‘and partiality of their friends to maintain them at  
‘any rate in the unjustifiable *possession* of a *seat* here;  
‘this has been practised upon former occasions, and  
‘therefore there are always just grounds to suspect  
‘it will be attempted again. And it is now come  
‘to such a pass, that if you were even to *double* that  
‘*penalty*, without doing something *else*, I am afraid  
‘it would have little or no effect. But when all these  
‘*bonds* of *indemnity* are declared *null* and *void*, when  
‘the securities usually given and taken upon these  
‘occasions are withdrawn, they may then perhaps  
‘be *deterred*, at least from so *barefaced* a practice of  
‘these arbitrary and illegal proceedings for the future.’

Mr. *Hutcheson* afterwards shews, that the qualification-act was very deficient. ‘What dependence, says  
‘he, for instance, can you have upon a man who has  
‘no more than three hundred pounds a year in land,  
‘or perhaps, only an annuity of that value for life,  
‘and has at the same time thirty or forty thousand  
‘pounds in the funds, or an employment of two or  
‘three thousand pounds a year, civil or military, from  
‘the crown? And even that small qualification is no  
‘otherwise obligatory upon him, than merely to en-  
‘able him to swear to his having it, if it be required  
‘at the time of his election; for though he sells it,  
‘or otherwise *divests* himself of it immediately after,  
‘yet

' yet it remains a *doubt*, whether by so doing he shall  
 ' vacate his *seat* in parliament. This is certainly  
 ' such an omission as requires to be better regulated  
 ' and *explained*. There is likewise a *saving* in that  
 ' act in favour of eldest sons of peers, and the same  
 ' for those of commoners of six hundred pounds a year;  
 ' but I confess I am at a loss to find out upon what  
 ' grounds the latter was inserted, unless care had been  
 ' taken at the same time to oblige the father or the son  
 ' to *prove* the *possession* of such an estate; for at pre-  
 ' sent, let the circumstances of the family be what  
 ' they will, if the eldest son can procure himself to  
 ' be *elected*, I cannot see but he is *intitled* to a seat  
 ' here, without any *farther examination* whatever.  
 ' This is another defect so gross in your former act,  
 ' and opens a back door to so many persons, so entirely  
 ' contrary to the intent and meaning of it, that it  
 ' very well justifies the repeal of it by this bill, I  
 ' mean so far only as it relates to the eldest sons of  
 ' commoners \*.'

A petition of the right hon. *Charles Sackville*, com-  
 monly called earl of *Middlesex*, and the hon. *William*  
*Hall Gage*, Esq; was presented to the house, A. D.  
 1747, and read, setting forth, ' That at the last elec-  
 ' tion of barons to serve in this present parliament for  
 ' the town and port of *Seaford*, in the county of *Sus-*  
 ' *sex*, the petitioners, together with the right hon.  
 ' *William Pitt*, Esq; and *William Hay* Esq; were  
 ' candidates. That on the day before the said election,  
 ' a noble peer of this realm did invite to, and enter-  
 ' tain at his house most of the voters of the said  
 ' town and port; and in the room where they were  
 ' assembled, spake to them one by one, and did solicit  
 ' and

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\* DEB. COM. VI. 272, seq.

and influence them, with respect to giving their votes at the said election; by means whereof several persons who had promised to vote, and would have voted for the petitioners, were prevailed upon by the said noble peer to vote for the said Mr. Pitt, and Mr. Hay. Which proceeding the petitioners conceive is an high infringement of the liberties and privileges of the commons of Great Britain. That on the day of election, in order to awe and influence the voters in favour of the sitting members, and deter them from voting for the petitioners, the said noble peer came into the court, accompanied by other peers of the realm; and being seated near to the returning officer, did continue there until the poll was closed; notwithstanding the presence of him, and the said other peers was objected to by one of the petitioners, and the returning officer applied to by him not to take the poll while the said peers remained present in the court. In all which the said petitioner thought himself fully justified, as he apprehended their presence obstructed the freedom of the election, and from the several declared resolutions of the house of commons, was a violation of the rights and privileges of the commons of Great Britain; and that by these and other illegal practices the petitioners lost a great number of votes, which would otherwise have been given for the petitioners: And therefore praying the house to take the premises into consideration, and to grant the petitioners such relief as to the house shall seem meet. The house was moved, That the resolution of the 16th day of this instant, November, That it is an high infringement of the liberties and privileges of the commons of Great Britain, for any lord of parliament, or any lord

lieute-

‘ lieutenant of any county to concern themselves in  
‘ election of members to serve for the commons in  
‘ parliament, might be read. And the same was read  
‘ accordingly. A motion was made, and the question  
‘ being put, That the matter of the said petition be  
‘ heard at the bar of this house: Upon which a debate  
‘ arose. In this debate, Mr. Pitt, one of the sitting  
‘ members, treated the petition with great *contempt*,  
‘ and turned it into a mere *jest*.’

On this occasion, Mr. Potter (son of the archbishop)  
spoke as follows: ‘ Mr. Speaker, I rise up to do  
‘ myself justice: For as I look upon the matter  
‘ contained in this petition to be of the utmost *im-*  
‘ *portance* to the *honour* of the *house*, and even to the  
‘ *existence* of *parliament*; and as to my very great  
‘ amazement, I see this question treated with the  
‘ greatest *contempt* and *ridicule* by an hon. gentleman,  
‘ whose weight may perhaps persuade a majority to be  
‘ of his opinion, I think I owe it to myself to declare  
‘ my sentiments on this great occasion by something  
‘ more than the vote which I shall give. I hope, Sir,  
‘ things are not yet come to such a pass, as to make it  
‘ necessary for any man to go about to prove that the  
‘ constitution is destroyed, whenever this house shall  
‘ lose its *independency*. After all the noble *struggles*  
‘ made in the house by great patriots, after all the  
‘ *laws* passed by the legislature to preserve that inde-  
‘ pendency, I should hope, that out of *decency*, as  
‘ well as out of regard to truth, I may be allowed to  
‘ argue upon that as upon an indubitable maxim.  
‘ The representatives of the people, when they are  
‘ chosen to that office, have been said to be *independent*,  
‘ even on their *constituents*; how necessary then, Sir,  
‘ is it for this house to take care that there be no *other*  
‘ improper, or corrupt *dependency*? But, Sir, if the

'ministers are to be allowed to nominate to the burghs  
 'the persons who shall be their representatives, how  
 'are we to expect an independent parliament? That  
 'ministers may endeavour to subvert this independency,  
 'that they may think it even necessary to their own  
 'security, to corrupt parliament, we have too much  
 'reason to know. But, Sir, whatever pains former  
 'ministers may have taken for this purpose, what  
 'undue methods soever they may have used to gain to  
 'themselves a corrupt majority in this house, I believe  
 'history is not able to produce an instance equal to the  
 'present of a wise and great statesman taking upon him-  
 'self the honourable employment of being an agent at a  
 'burgh. It was not enough to signify his commands  
 'by his underlings; it was not enough to solicit votes  
 'in his own person. The voters, it seems, could not  
 'be trusted out of his presence, and therefore, they  
 'were to be attended even to the poll. But, Sir, this  
 'great humility and condescension in a minister,  
 'would, in former times, have been construed a most  
 'notorious invasion of the rights of the people, and  
 'of the privileges of this house. And, Sir, what will  
 'the people say to us? Or what will they think of  
 'our independency, if we are not as jealous of their  
 'rights, and as tenacious of our own privileges as any  
 'of our predecessors have been? What will they think,  
 'Sir, if after seeing one parliament dissolved in a new  
 'unprecedented, I had almost said an unconstitutional  
 'manner, they shall be told, that the ministers have  
 'been nominating their representatives in the next  
 'even without the ceremony of a *congé d'élire*? But,  
 'Sir, still farther; What will they think, if they shall  
 'be told that this proceeding of the minister has  
 'been laid before the house of commons, and that  
 'the

‘ the house of commons will not, or *dare* not cen-  
‘ sure him? There have been times when no man  
‘ was thought *too great* to be *accountable* to *this house*  
‘ for his conduct; and I could give an instance  
‘ even in my own memory of a great and able states-  
‘ man, whose long administration was an honour and  
‘ benefit to his country, and whose conduct this house  
‘ thought fit to enquire into by the most severe scru-  
‘ tiny.—When I first heard the petition read at your  
‘ table, I could hardly believe it possible that the alle-  
‘ gations it contained were founded upon *truth*. I  
‘ expected to have heard the friends of the noble person  
‘ who is the object of it, boldly *denying* the *charge*, and  
‘ calling loudly upon the accusers to justify it; I  
‘ was determined not to believe it, unless supported by  
‘ the strongest proof. But, Sir, how great was my  
‘ amazement when I heard an honourable gentleman,  
‘ [W. Pitt, Esq.] ‘ who was privy to the whole trans-  
‘ action, not only *admitting* every fact alledged to be  
‘ *true*, but openly *avowing* and attempting to *justify*  
‘ them? In what light they may appear to him, Sir,  
‘ he can best tell you. But to me it seems most  
‘ manifest, that as the conduct complained of was the  
‘ greatest *injury* that could be done to our *privileges*,  
‘ the attempt to *justify* it is the greatest *insult* upon our  
‘ *understanding*. In what other light, Sir, can it ap-  
‘ pear to us, than as the last and utmost effort of one  
‘ who was determined at any rate to procure a *majority*  
‘ in this house of persons *attached* to *himself*, his own  
‘ creatures, the tools of his power? I wish to God,  
‘ Sir, nothing may happen to-day to give the people  
‘ room to suspect that he has been *too successful*. What  
‘ more could he have done? Or what greater insult  
‘ is it possible for him to offer, unless he should come  
‘ even

‘even within the walls of this house to direct our  
‘determinations? After what he has done—I should  
‘not wonder, Sir, if he did come and take that chair,  
‘and tell you, as we were told formerly, that your  
‘mace was a bauble, and that you should keep it only  
‘while you please him. Your *mace*, Sir, is a *bauble*,  
‘and so is every other *ensign* of *authority*, unless you  
‘can preserve your *independency*. A dependence upon  
‘the crown, Sir, would in the end prove fatal to our  
‘liberties; but a dependence upon the *minister*, as it  
‘is infinitely more *dishonourable*, is infinitely more  
‘*dangerous*. One might suppose, Sir, some *security* to  
‘a *people* from the *honour* of a crowned head, and  
‘from the solid *compact*s that are made between the  
‘*people* and their *sovereign*. I know of no *compact*s  
‘that are or can be made between a minister and the  
‘*people*. I can suppose too, Sir, that in some future  
‘time a minister may arise profligate enough to carry  
‘his views so high as to attempt to make both *king*  
‘and *people* *subservient* to his own ambition. I can  
‘imagine such a one, Sir, taking advantage of some  
‘general calamity or time of general confusion, by a  
‘*corrupt* parliamentary *influence* oppressing even the  
‘*king* upon his throne, and making the crowned head  
‘a prisoner in his closet. I can imagine him, Sir,  
‘so blown up with folly and self-conceit, as to become  
‘a competitor even with those who shall be of royal  
‘blood for posts of dignity or titles of honour; and  
‘he may, Sir, (it is hardly possible indeed) but he  
‘may even prostitute the name of the crown to support  
‘his pretensions. This, Sir, I say is a picture which  
‘I can draw in my own mind of the miserable situ-  
‘ation of this country if ever the *parliament* should  
‘become *dependent* on a *minister*. But as this can  
‘never happen but in some time of general infatuation  
‘or

' or general corruption, the wisdom and virtue of the  
 ' present age scarce secure us from seeing it otherwise  
 ' than in imagination: but, Sir, whatever I see, or  
 ' whatever I feel, God forbid that by an act or vote of  
 ' mine, I should make the way easy for such miseries  
 ' to overwhelm any future generation. The honour-  
 ' able gentleman was pleased to say that this was a *new*  
 ' case, and that there was no precedent upon our  
 ' journals to guide our proceedings: but let it be  
 ' remembered, that this can never be the case again,  
 ' since the vote of to-day will remain upon our books  
 ' an eternal precedent to posterity, and a law to this  
 ' house for the future. For God's sake then, Sir,  
 ' let us consider a little what sort of a law we are  
 ' going to make; let us remember that if the present  
 ' transaction passes uncensured, and is declared free  
 ' from guilt, we may hereafter see every peer of par-  
 ' liament, every secretary and other officer of state,  
 ' every chancellor of the exchequer, with his *treasury*  
 ' *bags* under his arm, *attending* and *soliciting elections*;  
 ' and when they shall be called upon in this house to  
 ' justify their proceedings, they shall tell you, they  
 ' have done nothing but what they had a right to do,  
 ' and that such was the opinion of this wise, this  
 ' independent, this freely elected parliament. Sir, I  
 ' am not one of those persons, who will ever be for  
 ' extending the privileges of this house to any ridicu-  
 ' lous or romantic degree: if I could but persuade  
 ' myself that there was the least room to doubt  
 ' upon this occasion, I should think that humanity  
 ' obliged me to put the mildest construction. But  
 ' really, Sir, I think the *insult* offered to the house  
 ' is of so *flagrant* a nature, I think the *precedent*  
 ' must prove so *dangerous* to the honour and indepen-  
 ' dency

‘*dency of parliament*, I think the consequences must  
 ‘be so destructive to the *constitution* as to deserve and  
 ‘demand the *severest* animadversion. The honourable  
 ‘gentleman was pleased to ask, What is the object of  
 ‘the petition? Sir, I will tell him what the object is;  
 ‘it is the *security*, the *freedom of parliaments*, and pro-  
 ‘tecting the privileges of the *commons of Great Britain*.  
 ‘Surely, Sir, from *this house* the *commons of Great*  
 ‘*Britain* have a *right* to expect *justice*. Their most  
 ‘valuable privileges have been *trampled upon* and in-  
 ‘*sulted*, and they come now by this petition to demand  
 ‘*justice*: Justice, Sir, they will receive, and I hope  
 ‘*now*. But of one thing I am sure, that, *sooner* or  
 ‘*later*, they will have it.’ (The petition was dismissed  
 by 247 against 96 <sup>a</sup> ).

The case of a double return from the borough of  
*Milborn-Port* came under consideration, *A. D.* 1747.  
*Michael Harvey* and *Jeffry French*, Esqrs. and *Thomas*  
*Medlycott* and *Charles Churchill*, Esqrs. were returned.  
 This being a borough by prescription, according to  
 the ancient usage and custom thereof, there have  
 always been in it nine capital bailiffs, who hold their  
 respective offices by virtue of deputations granted by  
 the proprietors of nine ancient parcels of borough  
 lands. Two of them preside yearly by rotation as  
 head officers; and these two presiding capital bailiffs  
 may, if they please, (at a court leet, held in *October*  
 yearly) appoint substitutes to execute the menial offices  
 of the borough, who are called sub-bailiffs. This  
 borough discontinued sending members to parliament  
 for many years; but was restored to its ancient privi-  
 leges, 4 *Charles I.* Since which time, it has continued  
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<sup>a</sup> *Alm. Deb. Com.* III. 77.

to send two members to every parliament, and the sheriff's precept for chusing members is always directed to the bailiffs thereof. For several years after the borough was restored to its privileges, the two presiding capital bailiffs, when present, or one of them when the other was absent, enjoyed the sole right of making the return to the sheriff's precept, that is to say, of returning the members they thought legally chosen. But since the restoration, these nine ancient parcels of borough lands having been all ingrossed, and become the property of two neighbouring gentlemen, by agreement between themselves, they, or some of their friends, were generally chosen and returned without opposition; and as it often happened that neither of the capital presiding bailiffs were present, the return was often made by their substitutes, or sub-bailiffs: but sometimes by the capital bailif or bailifs, and most frequently by the bailiffs and burghesses of the said borough. This was the constitution of the said borough at the time of the last election, when *Thomas Medlycott*, Esq. and *William Bishop*, were the presiding capital bailiffs, and one *Arthur Ansty* (said to be a common day-labourer and servant to the said *Thomas Medlycott*) was the sub-bailiff appointed by the said *Medlycott*. The candidates were *Michael Harvey* and *Jeffry French*, Esqrs. on one side, and the said *Thomas Medlycott* and *Charles Churchill*, Esqrs. on the other; and when the election was over, a return of the two former was made to the sheriff by the said *William Bishop*, which he accepted and annexed to his precept; but some days after, another return of the two latter was made to the sheriff by the said *Arthur Ansty*, which he likewise accepted, and annexed to his precept, so that his writ was returned with a double return for the said borough, and which was the legal return was the question, and the only question

that by order came to be determined on *Thursday* the 1st of *December* last. As to the return made by *William Bishop*, it was objected, first, That the sub-bailifs and not the capital bailifs were by the custom of that borough the returning officers: and secondly, That the said *William Bishop* was not properly qualified to act, because he had not previously taken an oath of office. To the first objection it was answered, that by the custom of the borough the sub-bailifs never acted but in the absence, or by the orders or permission of their principals; and when either of the capital bailifs was present, neither of the sub-bailifs could act as a principal; the capital bailif present being then the sole presiding officer. To the second objection it was answered, That *William Bishop* had taken all the oaths requisite by law, but that an oath of office was not requisite either by law or the custom of that borough, as had been admitted by the said *Thomas Medlycott* himself. Then as to the return made by *Arthur Ansty*, it was objected, 1st, That as he was only a sub-bailif, and both the capital presiding bailifs not only present, but acting as presiding officers, he could not act as a presiding officer in any affair whatsoever; much less in such a principal one as that of returning members to parliament. And 2dly, That the return made by the said *Arthur Ansty* was void by virtue of a resolution of that house of the 2d of *June*, 1685, by which it was resolved, That no mayor, bailif, or other officer, to whom the precept ought to be directed, is capable of being elected to serve in parliament for the same borough of which he is mayor, bailif, or officer at the time of election. And as the return made by the said *Arthur Ansty* must be supposed to be a return made by the said *Thomas Medlycott*, whose substitute and servant he was, according to the axiom in law, *qui facit per alium*

*alium facit per se*; therefore by this resolution it ought to be void. To the first objection it was answered, That by the custom of the borough the sub-bailiffs were the only proper returning officers, consequently the return made by *Arthur Ansty* was the only legal return; and to the 2d it was answered, That if the axiom of law were to be applied to the election for this borough, neither of the two proprietors of the nine ancient parcels of borough lands could ever be chosen or returned as representatives for this borough, because both the capital and sub-bailiffs are but their deputies; and as this would be inconsistent with common sense, as well as contrary to the custom of the borough ever since the above-mentioned resolution, it could not be supposed, that the house thereby intended to render the sub-bailiffs of this borough incapable of returning either their immediate principals, the capital bailiffs, or their remote principals, the proprietors of these ancient parcels of borough lands. Upon the whole, the house, after having spent two days in hearing counsel, reading former returns, &c. and examining witnesses, came to a resolution, that the execution of a precept for electing burgessees to serve in parliament for the borough of *Milborn Port* and the making of the return thereof, are only in the two sub-bailiffs of the said borough, or in one sub-bailiff, if there are not two, [*one sub-bailiff* is undoubtedly more like to be bribed, than *two capital bailiffs*] in consequence of which the clerk of the crown, by order, took off the file the return made by *William Bishop*, and the said *Thomas Medlycott* and *Charles Churchill*, Esqrs. became thereby the only sitting members<sup>a</sup>.

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<sup>a</sup> Alm. Deb. Com. III, 83.

The duke of *Bedford*, in the year 1735, presented a petition to the lords from the dukes of *Hamilton*, *Queensberry* and *Montrose*, and the earls of *Dundonald*, *Marchmont* and *Stair*, complaining, That, at the election of the sixteen *Scotch* peers, several undue methods and illegal practices were used, of which they could bring proofs, and praying that the house of lords would allow them to be laid before them <sup>a</sup>. The petitioners were persons of the highest rank and most respectable personal characters. The matter of their petition was of supreme consequence, affecting the very existence of the house of lords.

Some of the court-lords were against making any enquiry into the matter of it; fearing, that some things might come out, which would not be much for their honour. The earl of *Chesterfield* and lord *Bathurst* said, it was very extraordinary, that any hesitation should be made in the house of lords whether they should listen to a complaint of so high an enormity made by persons of such rank. When the matter came before the house, the dukes of *Athol* and *Buccleugh* observed, that the terms of the petition were vague and indefinite. It was remarked, that two *Scotch* peers speaking against the petition was rather indelicate. It was likewise observed, that the house of peers is not, like the courts below, confined to forms; but may proceed to the general issue and merits of the cause in the most natural way. It was moved, That the petitioning lords should be desired to declare, whether they intended to controvert the late election <sup>b</sup>. The petitioning lords declared, they did not intend to controvert the election or return of the

<sup>a</sup> DEB. LORDS, IV. 360.

<sup>b</sup> Ibid. 366.

the sixteen peers from *Scotland*, but only to lay before the house certain proceedings at the election, which they thought dangerous to the constitution, and which might affect future elections. A multitude of difficulties were started about such an enquiry's drawing imputations on certain characters; but it was rightly observed, that the lords would do well to consider, whether throwing impediments in the way of a due enquiry into the matter of the petition, would not draw imputations upon the house of peers.

The petitioning lords made a renewed application to the house of peers, signifying, besides what they had said in their first representation, that they could not, in the matter of their petition, act both as prosecutors and witnesses; that though their informations were sufficiently certain as to the fact, that there had been undue proceedings at the election of *Scotch* peers, yet their informers might not have thought proper to give in names, and may avoid doing so, till brought before the house of peers. Then they added \* as follows; ' Though the opening the particulars of the facts to be proved may necessarily produce such a discovery of evidence before examination as is usually thought dangerous even in course of ordinary trials, and may be much more so in the case of a parliamentary enquiry: Yet nevertheless, in consequence of your lordships order, as far as we are able from the nature of the thing, we do humbly acquaint your lordships, that we laid the petition before you upon information that the list of sixteen peers for *Scotland* had been framed by persons in high trust under the crown, long previous to the election itself; and

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' that

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\* DEB. LORDS, IV. 395.

' that this list was shewn to peers as a list approved  
 ' of by the crown, and was called the king's list;  
 ' from which there was to be no *variation*, unless it  
 ' was to make way for one or two particular peers;  
 ' on condition, that they should *go along* with the  
 ' *measure*. That peers were solicited to vote for the  
 ' list, called the crown-list, without the liberty of  
 ' making any alterations. That endeavours were  
 ' used to engage peers to vote for this list by promise  
 ' of *pensions*, and *offices* civil and military, to them-  
 ' selves and near relations; and by actual promise  
 ' and offers of sums of *money*. That sums of money  
 ' were actually *given* to or for the use of some peers to  
 ' engage them to concur in the voting for this list. That  
 ' annual pensions were promised to be paid to peers, if  
 ' they concurred in the voting for this list; some of  
 ' them to be on a *regular* establishment, and others to  
 ' be paid *without* any *establishment* at all. That about  
 ' the time of this election, numbers of pensions, offices  
 ' (of which some were *nominal*) and *releases* of *debts*  
 ' owing to the crown, were *granted* to peers, who  
 ' concurred in voting for this list, and to their  
 ' near *relations*. That on the day of election, a batal-  
 ' lion of his majesty's *forces* was drawn up in the Abbey  
 ' court, at *Edinburgh*, and three companies of it  
 ' were marched from *Leith* (a place at *one* mile's dis-  
 ' tance) to join the rest of the batallion, and kept  
 ' under arms from nine in the morning till nine  
 ' at night, when the *election* was *ended*, contrary to  
 ' custom at elections, and without any cause or occa-  
 ' sion, that your petitioners could foresee, other than  
 ' the overawing of the election. These instances of  
 ' undue practices we now humbly mention, which,  
 ' we hope, will satisfy your lordships, that we have  
 ' just

‘just reason to pray your lordships to take this matter into your serious consideration, and to provide such a remedy as may be effectual for preserving the right and freedom of elections, this being the *only* right that now remains with the peers of *Scotland* in lieu of a constant and hereditary seat in parliament.’

All this however, went for nothing with many of their good lordships. It was not sufficiently *particular* to be taken notice of by the house. Direct bribery was not a sufficiently particular instance of illegal practices; nor were the different species of it, *particularized* by the petitioning lords, *particular* enough. The demurring lords were even so hard put to it, that they blamed the petitioning lords for not mentioning the *name* of the *officer*, who commanded the regiment, which was appointed to overawe the election. But nothing would have been more trifling, than their naming him, because he was not guilty; but was obliged to obey his superior officer.

‘If a coroner, my lords,’ (says one of the right honourable speakers) ‘should be informed that a person had been murdered, the body buried, and the murderer concealed; but that if he would examine such witnesses as his informers should direct him to, the murder might be discovered, and the persons guilty apprehended and brought to condign punishment; surely the coroner would be very *deficient* in his duty if he should *neglect* or *refuse enquiring* into the affair, because his informers could not, or perhaps would not, declare to him the persons guilty and the *particular* manner in which the murder was committed. Surely, my lords, if his informers were men of any character or credit, if they were  
‘persons

persons upon whose information he could have the least dependence, he would immediately order the body to be taken up and examined, and would examine, in the strictest manner, every witness his informers could direct him to. The case before us is the very same. If your lordships can have any dependence upon the character or credit of the petitioners, you must suspect that a most horrid murder has been committed. An election there has been, whether it was a fair election, your lordships are to enquire; for if it was carried on by *undue* methods, and *illegal* practices, the *right* of the *peerage* of *Scotland* has been *murdered*, our *constitution* has got, I am afraid, a mortal *stab*. I am persuaded none of your lordships is of opinion that the petitioners are persons, whose information is not in *the least* to be depended on, and in such a case, upon such an information will your lordships refuse to make any enquiry, because they cannot inform you of the *particular persons* concerned in the *murder*, and of all the particular circumstances how it was committed? For God's sake, my lords, consider what an *injury* will be done, by such a *refusal*, to the *nation* in general; and what a public *flur* will be thrown upon the honour of this *house*, and upon the justice of our proceedings. In short, my lords, the honour of this house, as well as the independency of parliament, is, in my opinion, so much concerned in the affair now before us, the complaint is so well supported, the grievance so fully and so particularly set forth, and a redress so loudly and so generally as well as particularly called for, that if we do not enquire strictly into this affair, I shall hardly expect that *this house* will *ever*, for the future, enquire

‘enquire into the complaints of any subject, or of any number of subjects; and if the other house follow the example of this, where then shall the subjects go to complain? No where can they go, my lords, but to the foot of the throne, which they cannot approach, but when the ministers please to give them leave, and then, I am sure, it must be granted that the subjects of this once happy and free nation will be reduced to the same state with those of the most absolute, the most slavish monarchy upon earth.’

The ministerial lords made a handle of the circumstance, that the petitioning lords did not comply with their order, and send the names of the offenders. A gross proof of partiality against the matter of the petition! For the petitioning lords did not know all their names; and petitioned the house expressly for the purpose of finding out the guilty persons; which the petitioning lords themselves could not do. Besides that the naming, before examination, of the suspected persons was the sure way to defeat the examination by putting them upon absconding, or running away, and securing their betters from discovery. One would almost imagine, their tender-hearted lordships meant this in pure compassion to the poor innocents, who had unthinkingly stabbed the liberties of their country. At any rate, there was one obvious advantage, of which the lords disappointed the nation, viz. The legislature’s finding means for preventing (if they wished to prevent) such corrupt practices for the future. ‘We cannot conceive’ (said the protesting lords) ‘that an innocent person, who should happen to be named in the course of such an examination, can possibly be deprived of the means of making his innocence appear. But we can well foresee, that

‘guilty

"guilty persons (and these probably of the *highest* rank)  
 "may *escape* by such a method; which imposing an  
 "impossibility on the informants, must, as we apprehend,  
 "serve to defeat all parliamentary enquiries;  
 "and therefore could not be, in our opinion, within  
 "the intention of the order." The protesting lords  
 add, "We apprehend, that pinning down the peti-  
 "tioning lords to the precise words of the order, may  
 "be attended with this fatal consequence, that all  
 "parliamentary enquiries may be rendered much more  
 "difficult hereafter, which may probably give such  
 "encouragement to corrupt ministers, that they may  
 "be prompted to make the most dangerous attempts  
 "upon the constitution, and hope to come off with  
 "impunity. Such apprehensions naturally suggest the  
 "melancholy reflection that our posterity may see the  
 "time when some of those lords who sit upon a more  
 "precarious foot than the rest of the house, having  
 "through motives of virtue and honour, opposed the  
 "evil designs of some future minister, for that, and  
 "that alone, may be excluded at an ensuing election;  
 "and though the whole world may be sensible of the  
 "cause of their exclusion, no remedy may be found,  
 "but their case may become a subject of national  
 "concern, indignation, and resentment." It was then  
 moved, that the petition should be dismissed. And  
 it was urged (*gravely* I will not say; for I should  
 think hardly even a court-lord could so effectually com-  
 mand his countenance) that it was *a priori*, and  
 "from the nature of the thing," improbable (*geome-  
 trically demonstrable*, they should have said) "that any  
 "such practices were made use of at the late election."  
 Because the elected lords, were *good men* ". If this be

no

not demonstration, let the reader judge. It was observed, on the part of the petition, that if such a petition was dismissed, it would naturally be concluded, That the house of peers ' was never to enquire ' into any illegal practices, if by such enquiry an ' impeachment, or any other parliamentary proceeding, might become necessary for punishment.' It was said, That even ' common fame, or a general clamour was not only a foundation for an enquiry, ' but such a foundation as the house of peers is ' obliged, both in honour and duty, to lay hold of; ' that the guilty, if any such are found and convicted, may be brought to condign punishment; or, if otherwise, that the slanderers may be punished. ' General ' clamours ought never to be contemned, the people ' ought to be satisfied. It is one of the chief ends of ' our meeting in this house, and in such cases there is ' no way of satisfying the people, but by a strict ' enquiry, and a severe punishment upon the guilty; for ' guilty persons there must necessarily be upon all ' such occasions, either on one side or the other.' And if a *general clamour* is a sufficient cause for parliamentary enquiry, how much more a petition from *six noblemen* formally complaining of *injury* done themselves and their country? To say nothing of the duke of *Hamilton*, the *first* nobleman of the antient kingdom of *Scotland*, or of any of the other four, who subscribed the petition, the venerable name of the earl of *Stair* was *alone* sufficient to sanctify whatever it appeared affixed to, and to secure it from the neglect of any, but a set of men, who had long set shame and decency at defiance.

The affair of the *South Sea* directors, and of the charitable corporation, and of the *York-Buildings*

com-

company, were mentioned on the part of the petition, into which an enquiry was made, though as few particulars previously specified as in the present case. These were all set on foot in consequence of petitions from the injured, as in the present case. 'But,' (say the lords on the side of the petition) 'was it ever before desired, or insisted on that the *petitioners* should give *particular* instances of the frauds or illegal practices they complained of? Was it ever insisted on that they should give the *names* of the particular persons they supposed to be guilty? No, my lords, it never was. And shall the petitioners in the present case, because they are men of as *high quality*, and as *much injured* as any that ever presented a petition to parliament, because the injury they complain of is of as *high* and as *dangerous* a nature as any that was ever complained of to parliament; and because the practices they complain of are as *generally believed*, and as much *exclaimed* against, as ever any practices were in this or any other nation; shall they, I say, for *these* reasons be obliged to do *more* than was ever desired of any petitioners? Shall their petition be *rejected*, unless they will subject themselves to the *trouble*, the *expence*, and the *danger* of becoming the *actual accusers* of those they suspect to be guilty?'

It was observed, 'that even in private life, if a gentleman should relate a fact, and say he had it from such authority as he could depend on, it would not be consistent with common *decency*, to tell him, I can give *no credit* to what you relate; nay, I will not so much as be at the pains to *enquire* into the truth of it, unless you give me your *authority*. Consider, my lords, what are the authorities that *can* be given. The noble lords the petitioners have told us, that they have

'*certain*

‘ *certain information* of undue and illegal practices made  
‘ use of towards engaging peers to vote for a list at the  
‘ last election. The only authority they can give for  
‘ this allegation is, that of the *persons* who *told* them so,  
‘ and these are the very persons they desire to have *ex-*  
‘ *amined* at your *lordships* bar. Surely your lordships  
‘ would not have them to give you that authority at  
‘ present; you would not have them *now* to give you  
‘ the names of their informers; that would indeed be a  
‘ discovery of evidence, the most open that *ever* was  
‘ made, and more open than was ever *desired* from any  
‘ plaintiff in this world. This therefore is *not* surely  
‘ what the noble lords would have towards assisting  
‘ them to form a *judgment* of their own in the present  
‘ case; and yet *if this be not what they want*, I really  
‘ cannot comprehend *what* they would have.’

‘ If we look back upon all former elections in par-  
‘ liament, (says a nameless speaker in the debate) we  
‘ must think it very strange that the sixteen peers  
‘ chosen have always been of a *ministerial* complexion  
‘ almost without exception; and if the complexion of  
‘ any of them *altered* during the continuance of the  
‘ parliament, we have always found them *left out* at  
‘ the *next* election; nay, upon all *changes* of *ministers*,  
‘ we have found the election of peers in Scotland take a  
‘ *new* and a *general* turn. This could not, in my  
‘ opinion, have happened without something of a very  
‘ extraordinary ministerial *influence* on that election;  
‘ and this extraordinary influence cannot be obtained  
‘ without some *undue* methods and *illegal* practices;  
‘ nay, it is natural to suppose, that if he is not a man  
‘ of *more* virtue than ministers usually have, a minister  
‘ will always make *use* of the *power* and the favours of  
‘ the crown which are at his disposal, to get such a  
‘ set

' set of peers returned from *Scotland* as he shall approve  
 ' of; so that from the nature of the thing, as well as  
 ' from past experience, we have all the reason in the  
 ' world to believe there have been some illegal practices  
 ' made use of at the *last* election; and as the honour of  
 ' *this house*, as well as the preservation of the *consti-*  
 ' *tution*, is deeply concerned in *preventing* such prac-  
 ' tices, as such practices cannot be *prevented* by our  
 ' ordinary courts of law, an enquiry into this affair is  
 ' now, I think, become absolutely *necessary*.—'*Cus-*  
 ' *tom*, my lords, is of a mighty *prevalent* nature.  
 ' Even *virtue* itself owes its *respect* in a great measure  
 ' to custom; and *vice*, by being openly and *avowedly*  
 ' practised, soon comes to disguise itself, to conceal its  
 ' deformity, and at length to assume the habit of virtue.  
 ' If *ministerial* influence, if private and *selfish* views  
 ' should once come to be the *sole* directors in voting at  
 ' the election of the sixteen *peers* for *Scotland*, the prac-  
 ' tice would soon get even into *this house itself*; and as  
 ' inferiors are always apt to imitate their superiors, it  
 ' would from thence descend to *every election*, and to  
 ' every assembly in *Great Britain*. *Corruption* would  
 ' then come to be openly and generally *avowed*; it  
 ' would assume the habit of *virtue*; the sacrificing our  
 ' *country*, the sacrificing of all the ties of *honour*, *friend-*  
 ' *ship*, and *blood*, to any *personal* advantage or prefer-  
 ' ment, would be called *prudence* and *good sense*, and  
 ' every contrary behaviour would be called *madness* and  
 ' *folly*. Then indeed if there were a man of virtue left  
 ' in the nation, he might have reason to cry out with  
 ' the celebrated *Roman* patriot, O virtue, I have followed  
 ' thee as a real good; but now I find thou art nothing  
 ' but an empty name. It was, my lords, the general  
 ' corruption he found in his country that led that  
 ' great

‘ great man into such an expression. He died in the  
 ‘ defence of liberty and virtue; and with him expired  
 ‘ the last remains of the liberty and virtue of his  
 ‘ country; for *virtue* and *liberty* always go hand in  
 ‘ hand; wherever one is, there likewise is the other,  
 ‘ and from every country they take their *flight together*.’

It had been said on this occasion, that the enquiry  
 proposed by the petitioners would put the nation in  
 a ferment. To this it was replied, ‘ As to the  
 ‘ putting the nation in a *ferment*, I am sure in the  
 ‘ present case our going upon an enquiry will put the  
 ‘ nation into no ferment; but our *refusing* to make any  
 ‘ enquiry will certainly put the whole nation, and  
 ‘ particularly *Scotland*, into a very great ferment. We  
 ‘ ought to consider, my lords, the danger the whole  
 ‘ nation was exposed to by a most unjust rebellion  
 ‘ raised in that country against his late majesty; but  
 ‘ if the *peerage* of that country should find themselves  
 ‘ *oppressed* by a *minister*, and should find that *no justice*  
 ‘ is to be expected from *this house*, it may raise  
 ‘ *another* rebellion, or rather an *insurrection*, in that  
 ‘ country; and as they would then have *truth* and  
 ‘ *justice* on their side, it would naturally procure them  
 ‘ the *hearts* of all the people of *England*, and I am  
 ‘ afraid most of their *hands*.’

The petition being dismissed, a protest was entered  
 on the journals, in which are the following nervous  
 passages, viz.

‘ When we consider the first particular in the answer  
 ‘ of the lords petitioners, viz. That the list of sixteen  
 ‘ peers for *Scotland* had been framed by persons in *high*  
 ‘ trust under the crown, being *previous* to the election  
 ‘ itself, and that the list was shewn to peers, as a list ap-  
 VOL. I. Y proved

' proved of by the *crown*, and was called the king's list ;  
 ' we are filled with *indignation* to see that *great* name  
 ' *indecently* blended with the tricks of *ministers*, and  
 ' profaned and *prostituted* to the *worst* purposes, to  
 ' purposes that must necessarily tend to the *subversion*  
 ' of our *constitution*, which we know it is his majesty's  
 ' glory and desire to *preserve*. Such a criminal attempt  
 ' to fereent or facilitate a *ministerial* nomination by the  
 ' interposition (equally false and illegal) of his ma-  
 ' jesty's name, calls, in our opinion, not only for the  
 ' strictest enquiry and the severest *punishment* upon the  
 ' authors of the fact, if it be *proved*, or the *assertors*  
 ' of it, if it be *not* ; but it is in our opinion no way to  
 ' be dropt *unexamined* and *unenquired* into ; such a pre-  
 ' cedent may in future times encourage the *worst* of  
 ' *ministers* to load with *his* guilt the best of *princes* ; the  
 ' borrowed *name* of his *sovereign* may at once become  
 ' his *weapon* and his *shield*, and the constitution may  
 ' owe its danger, and he his defence to the abuse of  
 ' his prince's *name* after a long abuse of his *power*. —  
 ' We dissent, because we think the promises of pen-  
 ' sions and offices, civil and military, [and the other  
 ' above-mentioned bribes offered to the peers, who  
 ' should vote for the ministerial list] \* seem in the highest  
 ' degree to affect the honour and dignity of *this house* ;  
 ' since untroubled streams can hardly be expected to  
 ' flow from a *corrupted* source : and if the election of  
 ' sixteen peers for *Scotland* should ever by the foul arts  
 ' of corruption dwindle into a *ministerial* nomination,  
 ' instead of persons of the first *rank*, greatest *merit*,  
 ' and most considerable *property*, we may expect in  
 ' future parliaments, to see such only returned, who,  
 ' owing their election to the nomination of the mini-  
 ' ster, may purchase the continuance of their precarious  
 ' seats by a fatal and unanimous submission to *his*  
 ' dictates.

dictates. Such persons can never be *impartial* judges of his conduct, should it ever be brought in judgment before *this* great tribunal?

Thus far this shameless affair was carried; and then it was voted to adjourn; on which 32 lords dissented. Their protest concludes with the following words, *viz.* 'We have reason to apprehend that *posterity* upon the perusal of the journal of this day, may be induced to think that this house was not inclined to *permit* the transactions of the late election in *Scotland* to be brought under *examination* in any *shape whatsoever*: the method proposed being, as we conceive,—*clear* of all the *objections* which were made in relation to the petition.'

On occasion of the controverted election for *Yorkshire*, A. D. 1736, the commons allowed *parol-evidence* to be a sufficient proof, that a particular voter was not a freeholder, who had made *affidavit*, that he was. Yet we do not hear, that the man was *punished* for *perjury*. And afterwards, 'The house having re-assumed the hearing of the petitions relating to an undue election for the county of *York*, the counsel for the petitioners examined *Joshua Wilson*, in order to disqualify *John Maken*, as having had no freehold at the time of the said election in the place where he then swore, that his freehold did lie; and the said *Wilson* beginning to give evidence of that disqualification, by relating the confession of the said *John Maken*, he was interrupted by the counsel for the sitting member, who said, that as the house would not *admit* of a man's confession even *before* them, as an evidence against what he had sworn at the time

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of

\* DEB. COM. IX. 148.

\* Ibid. 151.

‘ of an *election*, they would not surely admit of a man’s  
 ‘ *private* confession to a neighbour in the country as  
 ‘ an evidence against what he had sworn at the time of  
 ‘ an *election*. Upon this the counsel on both sides  
 ‘ were heard, and several journals read, particularly  
 ‘ the resolution of that house of the 12th of *February*  
 ‘ then last, in the case of the election for the borough  
 ‘ of *Southwark* against admitting the petitioners counsel  
 ‘ to examine *Thomas Garman* in *contradiction* to his  
 ‘ oath at that *election*: And then the following question  
 ‘ was proposed, *viz.* That the counsel for the pe-  
 ‘ titioners be admitted to give evidence as to what a  
 ‘ voter confessed, of his having *no freehold*, who, at  
 ‘ the time of the *election*, swore *he had*. Upon this  
 ‘ motion there was also a debate; but upon the ques-  
 ‘ tion’s being put, it was carried in the affirmative by  
 ‘ 181 to 132.’

In the year 1739, complaint was made of an undue election for *Plymouth*. The last determination of the house, *viz.* *A. D.* 1660, had settled, that the right of election was in the mayor, and commonalty. The petitioner’s counsel insisted, that the word commonalty signifies *freemen only*, *excluding freeholders*. The house resolved the same. The sitting member, who was elected by a majority of freemen and freeholders, was turned out, and the petitioner, who was elected by a majority of *freemen only*, was received <sup>a</sup>.

How *necessary* ministers think it for them to have power in *elections*, appears from the following; which shews, that the then reigning junto were willing to sacrifice, to this great object, the liberty and happiness of every *British* subject.

*A. D.*

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<sup>a</sup> *DEB. COM. XI. 199.*

*A. D.* 1739, the ministry, on pretence of manning the navy, proposed an act, by which constables should have power, by a warrant from justices, to *enter* and *search private houses at all hours*, for concealed sailors. In the debate in the house of commons, an anonymous member spoke as follows<sup>a</sup>.

‘ I am surpris’d, to find gentlemen express so much  
 ‘ impatience, as some begin to shew in this debate.  
 ‘ I hope no gentleman comes here with a resolution  
 ‘ to give his vote upon either side of any question,  
 ‘ that may be started, till he has *heard* what may be  
 ‘ said for or against it; and therefore in a question  
 ‘ which so nearly concerns the liberties of this coun-  
 ‘ try, I cannot but be surpris’d at seeing gentlemen  
 ‘ express an *unwillingness* to *hear* the *argument* fully  
 ‘ *discuss’d*. If they will not be at the pains to let  
 ‘ us hear *their* sentiments upon it in any other way  
 ‘ than by their *Aye* or *No*, they ought to *attend par-*  
 ‘ *ticularly* to those that *will*; for though these mono-  
 ‘ syllables may determine the question, I am sure  
 ‘ neither of them will *convince* any reasonable man in  
 ‘ the kingdom. The question now before us is not  
 ‘ simply, Whether we shall agree to *this clause* or not.  
 ‘ It is, Whether we shall agree to put an *end* to our  
 ‘ *constitution*, and make *slaves* of ourselves, our con-  
 ‘ stituents and posterity? For this, in my opinion,  
 ‘ will be the certain consequence of our agreeing to  
 ‘ this clause, however amended. That our liberties,  
 ‘ nay and our properties too, depend upon the freedom  
 ‘ of our *elections*, is a maxim which I believe no man  
 ‘ will contest. A corrupt parliament may for a time  
 ‘ support an oppressive and wicked minister; but a parli-  
 ‘ ament

Y 3

ament is but the stream: Our elections for parliament men are the fountain head, and as long as they are left free and uncorrupted, the stream will of course refine, and will at last become as pure as the fountain from whence it flows. But this clause, Sir, seems to be contrived for poisoning the fountain itself, and for rendering all the elections in the kingdom dependent upon the will of every future minister. Let us consider, Sir, that the freedom of a man's vote at any election may be taken away, not only by an immediate *bribe* in ready money, or bank notes, but by the *hopes* of being rewarded for his compliances, or the *fears* of being made to suffer for his stubbornness; and if we consider how much a minister has it already in his power to make use of every one of those methods, we shall be extremely cautious of making any new additions to that power. That our ministers have *now* a much greater command of ready *money*, than they *formerly* used to have, can be denied by no man who considers the late increase of the *civil list* revenue, the great sums of late years allowed, even in time of peace, for *secret service* money, and the savings that may be made out of the vast sums now granted for the *current* service. I believe, Sir, it will be as little contested, that our ministers have now a much *greater* number of lucrative posts and employments at their disposal, than any *former* ministers ever had in this kingdom. These, Sir, are a two edged sword in the hands of a minister; they serve not only for cultivating the *hopes* of the compliant, but for encreasing the *fears* of the stubborn at elections; and by our late practice they are now become more useful in both these respects than ever they were before.

‘ before. It is now become a general and an established opinion, that no man is to expect or to hold  
‘ any post or employment in the government, unless  
‘ he, and all those over whom he has any influence,  
‘ take care to vote at every election according to the  
‘ directions of the minister. What an effect this  
‘ must have at all elections, gentlemen may easily  
‘ imagine. If an elector has any thing mercenary in  
‘ his temper, he will certainly vote according to court  
‘ directions at every election, in hopes that he, his  
‘ son, his brother, or some near relation, may get  
‘ a post or a preferment in the service of the government; and it is a great hardship upon honest men,  
‘ I mean those who vote upon all occasions according to conscience, to find themselves excluded from  
‘ all the benefits that are to be reaped by serving their  
‘ country in a public capacity. Whether it is so or  
‘ not, I shall not pretend to say; but I am sure it is  
‘ generally thought, that no man is now deemed  
‘ capable to serve his country, unless he be ready  
‘ upon all occasions to sacrifice the liberties of his  
‘ country to the dictates of those who have the disposal of our public employments; and this of itself  
‘ would in most countries be sufficient for establishing  
‘ arbitrary power.’—He goes on afterwards as follows.—‘ In a country where there is a multitude of  
‘ *penal laws*, and especially when those laws not only  
‘ punish, but *create* crimes, innocence can be no protection against the malice or revenge of those who  
‘ are entrusted with the executive part of the government. A man may *without knowing* it, be guilty  
‘ of a breach of such *intricate* laws; and even when  
‘ he is guilty of no breach, he may be plagued and  
‘ harrassed out of his life, or at least out of his business.

Y 4

‘ nefs, by the government’s officers. In such cir-  
‘ cumstances he must not only be a very honest, but  
‘ a very brave and resolute man, who will dare to  
‘ vote at any election contrary to these menaces that  
‘ are whispered to him by the tools of a minister;  
‘ and if we consider what numbers of electors are  
‘ already brought into such circumstances by the many  
‘ penal laws lately enacted, we shall have more reason  
‘ to wonder at any election’s being carried against  
‘ the court interest, than at the *minister’s* having the  
‘ *direction* of most of the *elections* in the kingdom.  
‘ When our liberties are in so great danger, when  
‘ there is so much reason to apprehend the prevalence  
‘ of court influence upon every election in the king-  
‘ dom, shall we pass a law, which will enable a  
‘ minister to distress every man in the kingdom, who  
‘ shall dare to disobey his orders at any election? I  
‘ say, Sir, *every man* in the kingdom; for this law  
‘ will enable a minister to distress not only our sea-  
‘ men, but *every man* in the kingdom that has a *house*  
‘ over his head. Such a law as this will have a  
‘ most fatal effect upon the freedom of our elections,  
‘ not only with regard to all such as are, or have  
‘ ever been at sea, or in any business upon the water,  
‘ but with regard to every other man in the kingdom,  
‘ that happens to be a house-keeper. Quiet and  
‘ security at home, is an advantage which every man  
‘ must desire, and consequently being disturbed by  
‘ unwelcome guests, or at unreasonable hours, is a  
‘ danger every man must dread. By this law you are  
‘ to put it in the power of a *minister* to disturb any  
‘ *house-keeper* in the kingdom as *often*, and at such  
‘ *hours* as *he* thinks fit; and consequently every house-  
‘ keeper in the kingdom must be under a continual  
‘ terror

‘terroꝛ of doing any thing that may provoke the  
‘minister to make use of this power against him.  
‘The interposition of an information upon *oath*, will  
‘be no *restraint* upon this power; because ministers  
‘are generally well provided with *informers* of all  
‘kinds, and the more wicked and oppressive a minister  
‘is, the more of these vermin he always has about  
‘him, and the more profligate they are. In my  
‘opinion it will be so far from diminishing, that it  
‘will *increase* the danger of this clause, because jus-  
‘tices are to be not only empowered, but *required* to  
‘grant their warrant, and constables are *obliged* to  
‘execute the warrant of the justices. If you leave  
‘it as it stands at present, the execution of the law  
‘must be regulated, or at least it ought, I think, to  
‘be regulated by the present practice in the case of  
‘vagrants. When the justices grant their warrant  
‘for a general search after vagrants and other idle and  
‘disorderly persons, the constables are not to search  
‘*every* house in the district; they are to search no  
‘where but in night houses, or houses of ill repute;  
‘and if they should disturb houses of good character,  
‘by virtue of such a warrant, they might be prose-  
‘cuted, and would be punished; and therefore as  
‘this law now stands, the constables could, in my  
‘opinion, search no where but in houses reputed to  
‘be harbourers of absconding seamen. This, I say,  
‘is my opinion, but if the clause should be passed  
‘into a law, I shall not say that my opinion would  
‘be asked or followed; and therefore I do not think  
‘we should agree to a law, which by too extensive  
‘an interpretation might be made of the most dan-  
‘gerous consequence both to the liberties of our  
‘country, and to the property of every subject. But,  
‘Sir,

‘ Sir, if you make the amendment proposed ; if you  
‘ require the justice to grant his warrant upon the  
‘ oath of any informer, you will make the evil con-  
‘ sequences of this law certain and unavoidable. The  
‘ justice *must* then grant his warrant, and the house  
‘ *must* be searched, let the character of the *house* be  
‘ ever so *good*, let the character of the *informer* be  
‘ ever so *bad*. This, Sir, is more than is done even  
‘ in the case of *felony* ; a justice is empowered to grant  
‘ his warrant to search a house upon information on  
‘ oath, that there is cause to suspect stolen goods  
‘ being concealed in that house ; but he is not *required*  
‘ so to do. He may, and ought to refuse, granting  
‘ his warrant, if the informer be a mean person, or  
‘ one of a bad character ; and if, upon searching, no  
‘ such goods be found, the *informer* would be made  
‘ *answerable* for all damages sustained by such search.  
‘ Nay the *justice* himself would be made answerable,  
‘ if it should appear that he had granted his warrant  
‘ upon the information of an insufficient person. I  
‘ therefore wish, Sir, that the honourable gentlemen  
‘ employed in drawing up this bill had considered  
‘ a little better the constitution and the laws of their  
‘ country ; for from the bill, as it stands at present,  
‘ the people without doors will be apt to imagine they  
‘ have very little regard to the liberties, the proper-  
‘ ties, or the ease of the subject, provided they can  
‘ but increase the power and influence of the crown.’  
—Afterwards he adds what follows ;—‘ Upon this  
‘ subject, Sir, I cannot pass, unobserved, the late  
‘ famous gin-act. By the established law of the land,  
‘ before that act was passed or thought of, no person  
‘ could sell beer, ale, or spirituous liquors, by retail,  
‘ without a licence from the justices of peace. The  
‘ justices

' justices had a power to *refuse* their licence, or to  
 ' *recall* it, when they pleased; and if any one sold  
 ' such liquors without a licence, he was by law made  
 ' liable to severe penalties. Besides this, there were  
 ' severe laws against all such as allowed drunkenness  
 ' or *tippling* in their houses; and moreover there  
 ' were several of our gin-shops that might, I believe,  
 ' have been indicted as a public nuisance. By a  
 ' neglect of all these remedies, *tippling* and drunken-  
 ' ness in gin-shops and ale-houses, came to a mon-  
 ' strous height, and was generally complained of,  
 ' and often presented by our grand inquest without  
 ' any redress, because our *justices* of peace, who are  
 ' entirely under the *direction* of our *ministers*, would  
 ' not put the laws in execution against these enormi-  
 ' ties. At last, when the people were worked up to  
 ' a sufficient rage against these enormities we were  
 ' told, that the laws in being were not sufficient for  
 ' preventing them; and though every one that under-  
 ' stood the law, knew the contrary, we were pre-  
 ' vailed on to agree to a new law, by which a very  
 ' great addition was made to the civil list revenue;  
 ' and every vintner, inn-keeper, ale-house-keeper, vic-  
 ' tualler, coffee-house, and brandy-shop in the king-  
 ' dom, brought under a most slavish dependence upon  
 ' our *justices* of the peace and *commissioners* of excise.  
 ' That these were the effects of the gin-act must be  
 ' apparent, Sir, to every one who considers that the  
 ' great increase of the civil list revenue pretended to  
 ' arise from its share of the duties upon spirituous  
 ' liquors, was owing to the enormities complained  
 ' of, which were, perhaps, for that very reason in-  
 ' dulged; and for the same reason, perhaps, it was  
 ' pretended, that no stop could be put to them by  
 ' the

' the laws in being, because if a stop had been put to  
 ' them that way, the *increase*, which had arisen to the  
 ' civil list revenue by indulging those enormities,  
 ' would have been annihilated without any recom-  
 ' pence from the aggregate fund. And if we confi-  
 ' der the necessity every keeper of a public house is  
 ' under of selling spirituous liquors in small quantities  
 ' to his customers, the high penalties he is, by that  
 ' act, subjected to, if he does so, and the *power* given  
 ' to the *commissioners* of excise and *justices* of the  
 ' peace, to mitigate those penalties; we may see, that  
 ' the keeper of every public house must be under a  
 ' slavish dependence upon our commissioners of excise  
 ' and justices of the peace, and consequently that he  
 ' must expect to be *ruined*, should he give his *vote*  
 ' against a *court*-candidate. Thus we may see, Sir, that  
 ' from all the inconveniencies that arose either from  
 ' a deficiency in our laws or from a neglect in the  
 ' execution of them, an advantage is taken for in-  
 ' troducing some new regulation, by which the  
 ' *power* and influence of the *crown* may be *increased*.  
 ' This has so constantly, in all ages, been the prac-  
 ' tice of our ministers, that one may from thence  
 ' conclude, that every man, as soon as he becomes a  
 ' *minister*, or as he calls himself, a servant of the  
 ' crown, begins to think himself in duty bound to  
 ' use every art he can think of for *destroying* the *liber-*  
 ' *ties* of the subject. This, I say, seems to have  
 ' been the way of thinking among ministers in all  
 ' ages, and I am sure in no age more apparently than  
 ' in this. Shall we then upon this, or any other  
 ' occasion, throw aside our jealousies and fears? Shall  
 ' we put a trust in those, who by their practices have  
 ' given us so good reason to be convinced of their  
 ' having

' having a design to betray us? If we are under any  
 ' present inconvenience, if we are under present diffi-  
 ' culties with regard to the *manning* of our *fleet*, let  
 ' us examine whether they proceed from the neglect  
 ' or misconduct of those concerned in the executive  
 ' part of our government, or from any real defect in  
 ' our constitution. If from the former, let us *remove*  
 ' those who have run us into such difficulties; and  
 ' if from the latter, let us consider our *constitution*, and  
 ' apply those remedies that are most consistent with its  
 ' security and preservation; but let us not plunge  
 ' into the pit, which our enemies have dug for us on  
 ' one hand, for fear of tumbling over the *imaginary*  
 ' precipice which they frighten us with on the other.  
 ' I am far from thinking we can be under any diffi-  
 ' culty in manning all the ships we have occasion for  
 ' in the present war; but suppose we were, there are  
 ' many other remedies, besides that now proposed.—  
 ' This remedy now under our consideration is the  
 ' very worst that could be thought of. It is publish-  
 ' ing our distress to the world, and giving our ene-  
 ' mies a just cause to triumph over us. If the *French*  
 ' or *Spaniards* owed us a grudge, they could in no  
 ' way so effectually punish us, as by forcing us to  
 ' *destroy* our *constitution*, and *give up* our *liberties*, for  
 ' the sake of defending ourselves against them. Our  
 ' passing such a bill would give great joy to every  
 ' *Frenchman* or *Spaniard* that understands any thing  
 ' of our constitution; and as I am against making a  
 ' holiday either in *France* or *Spain*, I must be against  
 ' agreeing to this clause \*.'

A. D. 1741, the house proceeded to the hearing  
 the merits of the *Denbighshire* election, and, the coun-  
 sel

fel on both sides being withdrawn, *William Middleton*, Esq; high-sheriff of the said county at the last election, was called in and heard, and being withdrawn, it was resolved, that the majority of the votes upon the poll was for the petitioner, Sir *Watkin Williams Wynne*, bart, and was so declared by the high-sheriff at the close of the poll, and no alteration was made in the said poll, until after the high-sheriff had made the return. Also that *John Middleton*, Esq; was not duly returned, and that Sir *Watkin Williams Wynne*, bart. ought to have been a knight of the shire for the said county, and the clerk of the crown was ordered to amend the said return. Then it was further resolved, that *William Middleton*, Esq; high-sheriff of the county of *Denbigh*, at the last election for a knight of the shire, having taken upon himself to return *John Middleton*, Esq; contrary to the majority of votes received by him upon the poll, and to his own declaration of the numbers at the close of the poll, without any public subsequent examination into the rights of the voters previous to such return, and having afterwards presumed to alter the said poll in order to give colour to such return, has acted partially, arbitrarily and illegally, in defiance of the laws, in manifest violation of the rights of the freeholders of the said county, and in breach of the privilege of the house; and that he be for his said offence committed prisoner to Newgate. The house also voted an address to his majesty to remove the said *William Middleton* from being receiver general of the land-revenue in *North Wales*, and also from being one of his majesty's justices of the peace for the counties of *Denbigh* and *Flint* <sup>a</sup>.

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<sup>a</sup> DEB. COM. XIII. 133.

As the election for *Westminster*, A. D. 1741, makes a considerable article in the business of this session, it may be proper to observe, that a great disturbance having ensued about taking the poll; a party of foot soldiers were sent for by order of three of the justices of peace. These proceedings gave rise to the following remarkable presentment of the grand jury of *Middlesex* to the court of king's bench on the 17th of *June* following.

*Middlesex.* We, the grand jury of and for the body of the county of *Middlesex*, do apprehend, that among the many enormities and offences committed against the public, none deserve our observation and censure more than those which tend to the subversion of the ancient rights of the people to a free election of their representatives in parliament, in whom they repose their undoubted share in the government as well as constitute them guardians of their liberties and properties. For we cannot but apprehend, that whenever the people shall lose the right of election, or, which is the same thing, the freedom of election, and shall be obliged to chuse their representatives, under the awe, dread, or influence of any other power, there must be an end of parliaments, or at least of the people's interest and share therein. Wherefore, being sworn to enquire for our sovereign lord the King, and the body of this county, we upon our oaths present, That on *Friday* the 8th day of *May* last, while the election for members of parliament for the city and liberty of *Westminster* was depending, and before the declaration thereof was made, a body of foot guards or soldiers, to the number of fifty or upwards, headed by officers, did in the afternoon, in a military manner, march up near the place of polling,

polling, which practice may be of the most dangerous consequence to the liberties of the people, as contrary to law, and a restraint on the freedom of elections. We, therefore, being affected and alarmed with a due sense and dread of so daring a violation and insult on our freedom and liberties, and the dangerous consequence of military power exercised in civil affairs, do recommend it to this honourable court to give such order and direction for preventing and discouraging the like heinous offences for the future, as they shall judge most proper and convenient.

A. D. 1754, four members for *Oxfordshire* were returned by the sheriff, instead of two. Therefore there was no sitting member for the county. Any member might have moved the house upon this the very first day of the session; and the sheriff might have been ordered to attend, and give an account of his proceeding. However, no notice was taken till November 18: So that the house was not legally such till the county of *Oxford* was represented, though it met on the 14th, and did business. All the four candidates petitioned, viz. lord *Parker* (now earl of *Macclesfield*) and Sir *Edward Turner* on the court side; and lord *Wenman* and Sir *James Dashwood* on that of the opposition. The friends of the two former moved, that the matter of the petitions should be heard immediately; but those on the other insisted, that the merits of the return ought to be first heard and determined; which was certainly reasonable. They therefore moved for the previous question, Whether the question upon this motion should be now put. Because if the previous

\* DEB. COM. XIII. 14.

† ALME DEB. COM. V. 153. 1. † Ibid. 153.

question had been carried in the negative, they would have had an opportunity to move for appointing a short day to consider of the return, and for ordering the high sheriff to attend. But this the court party were against, and carried their point, That the matter of the petition should be heard on the 3d of December following. Afterwards it was moved by the opposition, that the high sheriff should attend on the day of hearing. But this was carried in the negative\*. It appeared, that the sheriff had given a very unfair advantage to the court gentlemen, by allowing them to make their objections to all the voters through the whole poll, before the opposition-gentlemen should object to one individual; of which it was impossible to go through half before the end of the month, when the writ was returnable\*. The latter therefore insisted, that they were fairly elected; because they had an acknowledged majority, which could not be set aside by such an unfinished scrutiny, in which scrutiny; besides, they had not had an equal chance. It was therefore incumbent on the court-gentlemen's counsel to endeavour to overthrow the majority claimed by their antagonists. It was carried, that the opposition-counsel should proceed to shew the general merits of their cause. They did so, and proposed to disqualify no less than 540 voters for the court-gentlemen. Then witnesses were examined for proving the partiality of the sheriff, and for \* proving lord Parker and Sir Edward Turner, and their agents, guilty of bribery; for which purpose, they likewise produced letters, which they proved to be the hand-writing of the said two gentlemen\*. Nine days were spent in proving

\* *Alm. DES. COM.* v. 154.    \* *Ibid.* 156.    \* *Ibid.* 157.

proving voters on the court-side disqualified, Lord Parker and Sir Edward Turner answered objections against the sheriff, and endeavoured to clear themselves of the accusation of bribery, which they resorted upon their antagonists. They spent ten days in endeavouring to clear their voters. Then they proposed to set aside 522 of the opposite voters, in which they spent eleven days. Then the opposition counsel spent nine days in their reply. Many separate questions were debated, most, if not all, of which were determined by a great majority in favour of Lord Parker and Sir Edward Turner, the court-gentlemen. A motion was made by the opposition, That all copyholders, holding by court-roll, and not at the will of the lord, have right of voting for county members. This motion was made on purpose to have a negative put upon it, but it was set aside by the previous question. Lord Parker and Sir Edward Turner were declared duly elected.

It is a common trick of our ministers to put a loud shouting people upon taking up of their freedom in boroughs and cities before an election, with a view to their votes; every one of which may be supposed to be bought. Corporations have sometimes manifestly refused to grant freedom for such purposes; as that of Gloucester did about 1787. I took this fact from a Magazine, but have not quoted it right.

The number of petitions complaining of undue elections and returns was so great in the first sessions of the present parliament, that the house of commons must have employed one long session only in settling controverted elections, without bringing in any one bill, public or private. Therefore they thought it

necef-

necessary to put off all these petitions to next session. How many gentlemen may be supposed to have sat and voted during that session who had no right to be there, and whose illegal votes did in fact render the election made in that session null and void? See the *Magnifying* scroll of the times. Think they voted. Think they voted.

Could a more solemn farce be acted, than that of a certain *A. D.* which may be named, when the magistrates of a certain famous city were gravely reprimanded by the speaker of the house of commons, because they had proposed to their then present members to re-elect them, if they would advance a sum, not to be sunk in private pockets, but towards relieving the city from some of its debts? How the speaker could help laughing in the midst of his speech, when he reflected, that at least two-thirds of the house had obtained their seats by such corrupt means, is not easy to understand. I should have been strongly tempted, had I been one of these reprimanded citizens, to answer his reprimand as follows: 'None of your grimaces, pray good Mr. Speaker. You have caught me, and you have wounded us, and there is an end of the matter. But look around you, and think what large you must have to reprimand all who have given and received money for seats and votes in this house.' *bis* *responso*

There is nothing so common as the fact, that in a contested election between Mr. *Scotchard* and Mr. *Bertie*, in *Charles II.*'s pensioned parliament. It was carried for *Bertie*. Lord *O'Brien*, a relation of the lord treasurer, went to him in triumph with the news, and told him, they had fairly voted 53 more than 21. So in the late *Middlesex* election, the com-

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<sup>a</sup> STATE PRACTICES, time of king William, II. 476.

most Early voted against them: 1793. It is true, that Mr. Miller was known to have no real qualification. For there was no qualification for a subscription carrying on, to enable him to pay his debts. And (to say nothing of any objections against that gentleman's character, rendering him unfit to be a legislator) it was certainly not in character for persons assuming to be the protectors of the constitution, to do so *indiscriminately* a thing, as promoting an unqualified person's election into parliament. At the same time, this does not justify the members in their proceeding on that occasion: upon which I will add here, as a comment, the substance of a *précis* by several lords, as follows;

That the proceeding of the House of Commons on that occasion was unconstitutional. That the house might make laws concerning elections; but only in cases where it is already made. That election is in the hands of the electors, not of the house. That otherwise the rights may cease to be *popular*, and the *constitution* thrown into confusion. That there is no precedent for making expulsion imply incapacitation. That *Walpole* was re-elected by the people, after he was expelled by the house, which shows the will of the people to be, that expulsion does not incapacitate; but only gives the people leave to re-elect the expelled person, if they please. That according to this way of proceeding, elections may hereafter be obliged to choose only court tools, or no choice at all; if the house may expel and incapacitate arbitrarily. That if the house have, in their own breast, the power of expulsion and incapacitation, they may, in corrupt times, expel and incapacitate every *good* man. That the house of *Peers*, though they ought not to interfere in the proper and exclusive business of the other house, yet must inter-

fer;

fers, when they see designs carrying on, for overturning the whole constitution. For the peers cannot make a parliament without a legal assent, and without any more than without a legal assent. This assent in such a case would be approbation. That the peers are trustees for the people, and must be faithful, else the people are left at the mercy of the house of commons, without relief from the other houses. That the peers are the ancient constitutional councillors of the crown, and must give the king good counsel, even against the house of commons, if that house is wrong. The lords conclude with the following words:

And here we solemnly pledge ourselves to the public, that we will persevere in availing ourselves, as far as in us lies, of every right, and of every power, with which the constitution has armed us, for the good of the whole, in order to obtain full relief for the injured electors of Great Britain, and security for the future, against the most dangerous usurpation upon the rights of the people, which, by stepping upon the fundamental principles of this government, threatens its total dissolution.

The affair appeared to the opposition in the house of commons for some time, but they left it to the lords.

At this period it may be said the house of commons arrived at the height of despotism. They set themselves in the place of the whole legislature, and passed by a resolution to determine the right of the subject according to the known laws of the land, and the liberty and property of every subject in it. It is agreed, that every society has a right to determine on its own

members; but it must be a society of that nature, which by mutual agreement, binds itself; but if such society derives its right from the disposition of others, to determine the rights of their own members, would be to determine the right of the community, which no body of persons can do; nor can a society framed by the inherent right of each individual, be a judge of its own members: a Bishop, for instance, or a lord of parliament, cannot have his rights of voting in the house of peers taken away by a vote of the house of peers: a judge by a vote of the other judges, or a justice of peace by a vote of the bench of justices at a quarter sessions. If the right of a member of any society is therefore inherent, besides the society, of which he is a member, he has no right to eject him from such society, for a longer time than till the opinion of those who representative he is, can judge whether the crime for which he is ejected is of that nature to disqualify him from such service.

A. D. 1771, it was found, and represented to the house of commons, that a majority of the freemen of the town of *Sturham* in *Kent* had formed themselves into a club, which they profanely called the *Christian Club*. That the members of this club had entered into bonds to stand by one another at all elections; and to make the most lucrative bargains they could with candidates. That they took the bribery-oath without hesitation, and after the election was over, they received every man his penny, and the successful candidate paid to a committee of one who did not vote, nor take the bribery-oath. So they pretended

tended to defeat, damnation. The members of this club were disfranchised by parliament.  
In this month of November, 1772, Mr. Kelly gave up the contest for Worcester, publicly declaring that the expense was so great, he could not pretend to keep pace with his antagonist, though possessed of a large fortune. According to the constitution, and laws every *bill* laid out towards gaining an election is criminal, according to the practice of the times, a gentleman of *small* fortune must lay out more than he can afford (without begging his family) to be elected; that is, in order to have a seat among the *legislature*, a man must do the most *lawless* thing any subject can do, or, in other words, a candidate endeavours to obtain favour with his constituents by shewing them, that he is capable of *violating the laws*, and *defeating the constitution*, before he has an opportunity of convincing them, that he is qualified by abilities and disposition, for *making laws*, and *supporting the constitution*.

Ministers of State (says Sir William Wyndham, in the debate on the repeal of the septennial act, 4 D. 1774) know well how unequal the contention is between a country gentleman who has nothing but his own *estate* (greatly exhausted by the many taxes he pays) to depend upon, and ministerial electioneering, supplied by gentlemen in office, who have for seven years been heaping up money for that purpose, or perhaps have been supplied even by the public treasure of the nation; and the sooner this contention begins, the greater disadvantage the country

\* Alm. Deb. Com. ix. 148.

\* See the News papers of Nov. 1773.

country gentleman labours under, the more time  
 those tools of corruption **Art. 6** practise upon the  
 electors, and to discover where that money may be  
 placed to the best advantage, which is offered for  
 corrupting the people and overturning the consti-  
 tution. From hence it is obvious who have been  
 and who will always be the beginners of such con-  
 spiracies. **T**he people may always be intrusted with the  
 care of their own affairs, and whoever endeavours to  
 influence them may mislead them; but certainly  
 will not direct them better, than they will direct  
 themselves. There was an instance in the election  
 of **A. D. 1681**. Many places followed the example of  
 London, and in most places the electors treated the  
 candidates, against the common contrary custom,  
 or they bore their own charges. There was like-  
 wise a parliament in **Mr. Pym's** time, which was  
 reckoned to have been elected in a very free manner.  
 And I find in my common-place book the following,  
 copied from some history of the times: 'The court  
 did not meddle in the election, **A. D.** there was a very good parliament chosen. I have  
 omitted nothing by authority.'

**Dr. Com. viii. 129.**

**ibid. ii. 99.**

**ART. CLER. cap. xiv.**

**STAT. HEN. IV.**

**STAT. HEN. IV. cap. xiv.**

**STAT. HEN. IV. cap. xiv.**

*Statutes, Resolutions, &c. against corrupt proceedings at elections.*

**T**HERE have been various laws and regulations made to prevent, and punish corrupt proceedings at elections. So early as the time of *Edw. II.* who was crowned *A. D. 1307.* we find laws against soliciting votes for elections.

See *2 Hen. IV. cap. 15.* The manner of election of knights of shires for parliament. And the penalty on a sheriff for making an untrue return of the election of the knights of parliament. It was enacted, (says *Elphinstone* speaking of this statute) at the petition of the commons, that proclamation be first made in the next county court, after the sheriff hath received the writ of election to be made, that the election be in full county, wherein they shall proceed freely and indifferently, notwithstanding any prayer, or commandment, to the contrary. And four years afterwards a fine of 100 *l.* was laid on all sheriffs making returns contrary to the above statute, and the knight so elected to lose his wages. The writ of return to be signed by all the voters.

By *11 Hen. IV. cap. 1.* the justices of assize were to make enquiry and determine concerning irregular elections and returns, and to punish sheriffs, or others offending.

\* ART. CLER. cap. XIV. STAT. WESTM. cap. V.  
STAT. 7 Hen. IV.

\* STAT. AT LARGE, 1. 438.

\* Ibid. 442.

\* 74. Rapin, 1. 498.

offending. And by 6 Hen. VI. cap. 4. persons claiming to have been ~~elect~~ elected, and ~~therefore~~ pleading innocence, may traverse the sentence, and have trial, and not be punishable, but upon regular conviction at common law.

By 1 Hen. V. cap. 1. never repealed, no man can be member for a shire, city, or borough, unless he has property in it, and unless it be his usual residence. According to these statutes, not one member in twenty ought to sit in the house, who have, of late times, had seats in it. We see every day, some old law against the people trumped up. Why should not those in favour of liberty be enforced?

By 3 Edw. I. cap. 5. 'there shall be no disturbances of free elections.' Elections here are not to be understood of elections of members of parliament only. Though elections for parliament are the chief, and of such importance, that infringing their freedom is alone an irremediable poison to liberty. By sundry statutes of Hen. VI. 1188. members falsely returned are to lose their wages, and the sheriff making false returns are fineable 100 l.

In ancient times, it is probable, that all the knights of counties had privilege of voting for members (in those times almost any body might sit in parliament in his own right) but this number was thought too unwieldy. Therefore, in the beginning of Hen. VI. the right of voting was limited to landholders of 40 shillings per ann. and so Hen. VI. 14 was determined that the 40 shillings should be freehold. A. D. 1659, under the commonwealth, a bill was brought

<sup>a</sup> STAT. AT LARGE, I. 498, 571. <sup>ibid.</sup> 449.

<sup>c</sup> *Ibid.* 48. <sup>ibid.</sup> 551.

<sup>d</sup> STAT. AT LARGE, I. 504. et pass.

brought in, by which any person giving an entertainment to any elector was incapable of sitting in the House.

The famous qualification act, 1659, disqualified, among others, deists, blasphemers, profaners of the Lord's day, professed cursers and swearers, drunkards, and those who have given any conditional promise or entertainment, or bribe to electors, with heavy penalty on both member and elector.

Resolved, *N. D.* 1685, that no mayor can duly return himself a burgess, to serve in parliament for the borough of which he is mayor, at the time of his election.

Resolutions were made, *N. D.* 1678, against bribery at elections, that if any man gives victuals above 10*l.* value, after the date of the writ of election, or after a place becomes vacant, any where but in his own house, or who makes any promise or declaration before an election, it shall be punishable as bribery, the election void, and the candidate incapable of sitting by that election. To be a standing order of the house. It was moved to have enquiry made concerning pensions charged on the revenue, privy seals issued for that purpose since 1677, a test concerning bribery and corruption in elections; or to carry a cause or bills in parliament.

*N. D.* 1679, a bill was brought in, that when a member takes a place of profit, a new writ is to be issued. See the draught of a bill for regulating the

\* *Macaul. Hist.* v. 314.

\* *Parl. Hist.* xxii. 131.

\* *Dep. Com.* ii. 172.

\* *Ibid.* 286.

\* *Ibid.* i. 284.

\* *Rap.* ii. 706.

abuses of elections, which was twice read, and committed, by the commons, *4<sup>th</sup> Dec. 1679*, and afterwards published<sup>a</sup>, forbidding minors, and persons of no property, or not resident for a year, to vote for members; forbidding all manner of treating, feasting, bribing, promising, &c. on penalty of heavy fines, &c.

Bill to regulate elections passed, *A. D. 1690*.<sup>b</sup> Bill for free and impartial elections passed, *A. D. 1693*.<sup>c</sup> A bill was brought in, and passed, *A. D. 1695*, for voiding all elections, where members had been at any expence for victuals, drink, or money, to procure votes. 'It was very strictly penned' (says *Burnet*<sup>d</sup>) 'but time must shew, whether any evasions can be found out to avoid it. Certainly, if it has the desired effect, it would prove one of the best laws ever made in England; for abuses in elections were grown to most intolerable excesses, which threatened even the ruin of the nation.'

An act was passed, *A. D. 1696*, by which all returns were to be made according to the last determination of the house of commons<sup>e</sup>. The famous bill for regulating elections was rejected the same year by the king. The commons were offended. The question was put, 'That the king's advisers were enemies to their country.' Over-ruled by the previous question; but the first question was printed in the votes, and names on both sides.

By 7 and 8 *Will. III. cap. 3*, it is enacted, That sand dates after the test of the writ, or after a place becomes

<sup>a</sup> *Sommers's TRACTS*, I. 63.

<sup>b</sup> *DEB. COM.* II. 381.

<sup>c</sup> *HIST. OWN TIMES*, III. 223.

<sup>d</sup> *Trid. CONTIN.* I. 323.

<sup>e</sup> *Ibid.* 421.

<sup>f</sup> *Ibid.*

becomes vacant, giving or promising any present, or reward, to any person having votes for being elected, shall be incapable of sitting in parliament. And by the same, cap. 7. gifts and double returns are prohibited on penalty. And by the same, cap. 25, many regulations are enacted for preventing irregularities at elections. And by 10 and 11 Wm. III. many regulations are enacted relating to the proceedings of sheriffs, and to returns, &c. And by 7 Wm. III. against multiplying writs to compel the election of members to sit in parliament, &c. And by the same, no person is to give money, present, or entertainment to a voter, after the place becomes vacant, on pain of imprisonment, fine, or double return, or attempts to procure them, are punishable. Unlawful delay of elections, adjournments to unusual, or inconvenient places, splitting of parishes, to multiply votes. A mortgage, if the equity of redemption is in another, shall not be qualified unless the mortgagee has been in possession 7 years before the election. Candidates refusing to take the oath concerning their qualification, are to void their elections. By the same act, fraudulent conveyances, in order to multiply votes at elections, are forbidden. The same by 10 Ann., cap. 23. The same is explained, in 11 Ann., cap. 5. And 12 Ann., cap. 25. is an act for making perpetual writs of mandamus, &c. against sheriffs, &c. See 9 Ann., becomes

\* STAT. AT LARGE, III. 199.

<sup>b</sup> Ibid. 201.

<sup>c</sup> Ibid. 234.

<sup>d</sup> Ibid. 414.

\* DEB. COM. IV. 258.

<sup>e</sup> STAT. AT LARGE, IV. 483.

<sup>f</sup> Ibid. 526.

In the same page, see an act for regulating elections in Scotland.

<sup>g</sup> Ibid. 541.

9 *Ann.*, cap. 5, an act for securing the freedom of parliament, by further qualifying the members to sit in the house of commons. A. Achil was brought in, *A. D.* 1711, for preventing fraudulent conveyances; in order to multiply votes. An act against fraudulent conveyances for multiplying votes, *A. D.* 1712, was passed by the Tories.

The qualification for county members, 600*l.* a year clear, for boroughs and cities, 300*l.* was settled, *A. D.* 1710. (No qualification required for elections, and heirs of peers, or lords of parliament, or heirs of gentlemen of 600*l.* and 300*l.* a year, nor for university members, which is very absurd, because no people are more obnoxious to bribery, than heirs to estates, before they come into possession.) The candidates to make oath, if required by their antagonists, of their being worth so much money before election, or if not within three months after, to be certified in chancery, by the sheriff, or under sheriff, on forfeiture of 100*l.* Candidates refusing the oath at election time, if demanded, to void their elections. The act was blamed on several accounts; among others, because it excluded traders from representing the trading interest.

Inquiry was made, *A. D.* 1711, concerning false conveyances for multiplying votes for county members, and a bill ordered in for checking corruption in city and borough elections. Carried up to the lords.

STAT. AT LARGE, IV. 299.

DEB. COM. IV. 258.

*Ibid.* 309.

*Ibid.* 187.

*Ibid.* 189.

*Ibid.* 258.

*Ibid.* 299.

A bill for preventing fraudulent conveyances for multiplying votes, was read the first time, and ordered a second reading, Oct. 17th 1713. A second clause in the act against fraudulent conveyances and false multiplications of votes and others passed by commission passed Nov. 17th 1713. An act passed for regulating elections in Scotland. Bill for continuing an act made in the 7th Will. entitled, An act to prevent false and double returns of members to serve in parliament, read once, 4 D. 1713, and ordered a second reading. A bill ordered in 4 D. 1713, for limiting the number of officers in the house. 4 D. 1713, the house in a grand committee, considered the act of the ninth year of her majesty's reign, entitled, An act for securing the freedom of parliaments, by the farther qualifying the members to sit in the house of commons, and came to the following resolutions: I. That notwithstanding the oath taken by any candidate, on or after any election, his qualifications may be afterwards examined into. II. That the person whose qualification is expressly objected to in any petition relating to his election, shall within fifteen days after the petition read, give to the clerk of the house of commons a paper signed by himself, containing a rental or particular of the lands, tenements, or hereditaments, whereby he makes out his qualification, of which any person concerned may have a copy. III. That of such lands, tenements, or hereditaments, whereof the party hath been in possession for three years before the election, he shall also insert in the same paper, from what person, and by what

<sup>a</sup> Deb. Com. v. 12.

<sup>b</sup> Ibid. 53.

<sup>c</sup> Ibid.

<sup>d</sup> Ibid. 49.

<sup>e</sup> Ibid. 4.

what conveyance or act in law he claims and derives the same; and also the consideration, if any paid; and the names and places of abode of the witnesses to such conveyance and payment. IV. That if a sitting member shall think fit to question the qualification of a petitioner, he shall within seven days after the petition read, leave notice thereof in writing, with the clerk of the house of commons; and the petitioner shall, in such case, within fifteen days after such notice, leave with the said clerk of the house, the like account in writing of his qualification, as it is required from a sitting member\*.

The bill for securing the freedom of elections, which passed the house of commons, A. D. 1721, and was thrown out by the lords at the second reading (by collusion, Mr. Gordon supposes) was to enact, that the writs be faithfully delivered to the returning officer; that all contracts to save returning officers harmless for making undue returns of members, be null and void, and both parties punishable 1000*l.* each, and incapacitated; that every person voting at an election, purge himself by oath, before he votes, if required, of all undue influence, fine for refusal 40*l.* perjury to be punished as usual, and with incapacitation besides; that any person giving any of the public money to influence an election, be fined 1000*l.* and punished with incapacitation; and that all English members, except the eldest sons of peers, or of persons qualified for being county-members, and the members for the two universities, be obliged before they sit, or vote, to give in to the clerk of the house of commons, a particular of his qualification, as per

9 *Anna*;

9 *Ann.*, that there shall be only one election-meeting for each election in Scotland.

There was a debate on a bill to secure the freedom of elections, *H. D.* 1722. The bill was rejected. The only reason mentioned was, because several clauses in it could not be put in execution, they said, without exposing the most innocent persons to the guilt of perjury.

By 1 *Geo. II.* cap. xxiv. all electors are, if called upon, to take the bribery oath, disclaiming their having received, or their expecting any kind of emolument, or advantage, in consideration of their vote. The presiding officer forfeits 50*l.* if he refuses to administer the oath, and the returning officer 100*l.* for admitting any person to poll without taking the oath, if demanded. The returning officer is likewise to purge himself by oath, on the common penalty, if convicted of perjury, with incapacity of voting ever after. The last determination of the house or commons is to decide finally what votes are legal in every city, or borough. Persons convicted of taking money, or reward, for voting, to be fined 500*l.* and incapacitated for ever, if prosecuted within 2 years. But offenders discovering, within one year, others equally guilty, are indemnified.

A bill for regulating elections was brought in, *A. D.* 1735, and some progress made in it. Put off. By 8 *Geo. II.* cap. xxix. no military force to be nearer than two miles to any place, where there is an election.

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<sup>a</sup> *DEB. LORDS.* III. 227 to 232.

<sup>b</sup> *STAT. AT LARGE*, VI. 123. *DEB. COM.* VII. 43. *DEB. LORDS.* IV. 15. *FIND.* VIII. 46.

<sup>c</sup> *DEB. COM.* IX. 39.

tion<sup>a</sup>. By 13 *Geo.* II. (which refers back to 10 *Anne*, cap. 23.) several regulations are made respecting qualification of voters<sup>b</sup>.

The Duke of *Argyle* proposed, *A. D.* 1739, that it should be made penal to offer a bribe, as well as to receive it; which would have made bribing difficult and dangerous<sup>c</sup>.

Read a second time, *A. D.* 1739, a bill to prevent collusive qualifications of persons to vote as freeholders<sup>d</sup>. Passed<sup>e</sup>. A bill for regulating the proceedings of returning officers at elections was ordered in, *A. D.* 1741.<sup>f</sup> It was passed by the commons, 93 to 92, and afterwards engrossed, sent to the lords, and there lost<sup>g</sup>. Another for disabling pensioners to sit<sup>h</sup>, was read once<sup>i</sup>.

By 16 *Geo.* II. cap. 11. regulations are made respecting elections in *North Britain*<sup>k</sup>. By 18 *Geo.* II. cap. 18. the laws relating to the election of knights of the shire in *England* are explained and amended<sup>l</sup>. By 19 *Geo.* II. cap. 28. various regulations are made respecting elections of members for such cities as are counties of themselves<sup>m</sup>.

*A. D.* 1742, three bills were ordered into the house of commons for regulating elections<sup>n</sup>. The same year the bill for regulating elections in *North Britain* passed<sup>o</sup>. And another relating to county elections in *England*<sup>p</sup>.

Several

<sup>a</sup> STAT. AT LARGE, VII. 50.

<sup>b</sup> Ibid. 372.

<sup>c</sup> DEB. LORDS, VI. 398.

<sup>d</sup> DEB. COM. XI. 320.

<sup>e</sup> Ibid. 322.

<sup>f</sup> Ibid. XIII. 271.

<sup>g</sup> Ibid. 135.

<sup>h</sup> Ibid.

<sup>i</sup> Ibid. 136.

<sup>k</sup> STAT. AT LARGE, VIII. 41.

<sup>l</sup> Ibid. 154.

<sup>m</sup> Ibid. 217.

<sup>n</sup> DEB. COM. XIV. 195.

<sup>o</sup> Ibid. 212.

<sup>p</sup> Ibid. 218.

Several bills for quieting corporations, and regulating their elections, were read by the peers, *A. D.* 1742.<sup>a</sup> Read a 1st time, *A. D.* 1742, a bill for explaining and amending the election laws, and for restraining the partiality and regulating the conduct of returning officers.<sup>b</sup> Too good a bill to come to a 2d. reading. A bill passed the commons, *A. D.* 1742, relating to county elections in *England*, to prevent the bad effects of partiality in returning officers.<sup>c</sup>

*A. D.* 1745, was passed the act for regulating elections for shires in *England*.<sup>d</sup> An act passed, *A. D.* 1757, prohibiting on penalty, all persons voting at elections who hold estates by copy or lease for years.

According to law, there must be no treating, or other electioneering work, after the writs are out. *M<sup>r</sup> Beckford*, late lord mayor of *London*, moved the House of commons, for leave to bring in a bill to stop treating and electioneering at all times, and to oblige the candidate to take an oath, that he has not bribed, as well as the elector, that he has not been bribed. The motion was over-ruled. It was feared, it would pinch too close.

*A. D.* 1760, a motion was made in the house of commons for an instruction to a committee, that they have power to receive a clause, or clauses, for restraining the judges from taking fees, gifts, entertainments, &c. from any city, borough, sheriff, under-sheriff, &c. on their circuits, and from officers in the courts of law. The motion was over-ruled. See 20 *Edw.* III. ch. 1. and 13 and 14 *Ch.* II. 21. sect. 1, 2. Another

<sup>a</sup> *DEB. LORDS.* VIII. 482, *et passim.* <sup>b</sup> *Ibid.* 208.

<sup>c</sup> *DEB. COM.* XIV. 218.

<sup>d</sup> *Alm. DEB. COM.* II. 313.

<sup>e</sup> *Ibid.* v. 227.

other motion was at the same time made, That it be an instruction to the said committee, that they have power to receive clauses for restraining judges, barons, justices, &c. from interfering otherwise than by giving their *own* votes in elections for members of parliament. This motion was likewise rejected.\*

*A. D.* 1773, a motion was made for leave to bring in a bill for preventing the gross abuse of *occasional* voters in places where all the inhabitants have right of voting. The motion was, through fear of its success, withdrawn. Elections have been *stopped* to wait the arrival of *waggons* filled with occasional voters.

Mr. *Hutcheson* had proposed, *A. D.* 1722, that the committee for privileges and elections be *select*, consisting of 36, and to have power to hear and determine all matters without bringing contested elections before the house. It was observed, that this was the practice both before and after *Queen Eliz.* and was only broken off in the long parliament 1641, when all things went into confusion. The motion was dropped. But, *A. D.* 1770, Mr. *Grenville* moved the house of commons that a remedy should be provided for the infamous manner in which the house exercised its jurisdiction on elections. That it was the constant barefaced procedure of every petitioner to solicit the attendance of each member. At first he would only ask you to attend to his *merits*; but if you promised that, he would ask, "Well, but will you attend *for* me?"—And Mr. *Grenville* was sorry to say, that even this request was too frequently granted on all sides—nay, that

\* LOND. MAG. April, 1760, p. 177.

<sup>b</sup> See the News-Papers of *March*, 1773.

<sup>c</sup> DEB. COM. VI. 285.

' that in every election-cause, a few members were  
 ' dignified with the appellation of *managers*; a very  
 ' proper appellation for those, who immediately after  
 ' were to be made *judges*. That it was also the custom  
 ' for the *benches* to be exceeding *thin*, when the cause  
 ' was to be *tried*, but before the *question* was put, the  
 ' house became exceeding *full*, as the members, who  
 ' had thus promised their attendance, looked on  
 ' nothing more as necessary than to give their votes.  
 ' At dinner time, many made no scruple, though  
 ' the cause was not determined, of *pairing off*, as it is  
 ' called; some paired off for every question in the  
 ' election, others for a day, or a few hours only—It  
 ' was even got to so notorious a point, that at the be-  
 ' ginning of every election-cause, some question was  
 ' brought on, to try their strength, as it is called, and  
 ' the party, who are the weakest in *numbers*, though  
 ' often the contrary in *merits*, are forced to give up to  
 ' a cold and fruitless expence.—In short, he appealed  
 ' to the consciences of every gentleman in the house,  
 ' whether any of them would *chuse* to determine their  
 ' *property* before the house of commons, if a jury of  
 ' *porters*, or chairmen, could be obtained for that pur-  
 ' pose. That he mentioned this as a grievance very  
 ' proper to be redressed, and that if the house was of  
 ' his opinion, he would name a day when he would  
 ' make a motion for leave to bring in a bill for that  
 ' purpose.' The notoriety of the affair made the  
 whole house concur in his sentiments, and a day was  
 appointed for a motion to be made—every gentleman  
 who spoke on the subject, adding some fresh reasons  
 to shew the necessity of such a motion\*. He ob-

A a 3

served,

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\* *Alm. Deb. Com. VIII. 240.*

served, that when contested elections were tried before the house, or a committee of the whole house, matters were very superficially examined; gentlemen having no particular tie of oath or honour upon them, contented themselves with giving their vote without examining as they ought, sheltering themselves under the numbers who did the same. [That is, in plain English, gentlemen, in order to avoid a little trouble, betrayed the interest of their country, excusing this shameful practice by the numbers who were guilty of it.] He observed, that in former times, down to the revolution, tryers of petitions were appointed, from among the most respectable of the lords. Afterwards petitions were heard by the whole house of peers. Then the chancellor taking too much upon him, the house of commons appointed a committee of 200. But in the speaker *Onslow's* time, petitioners were, on account of his known ability and impartiality, desirous of having their causes heard before the house rather than before a committee. But this could not be general. Therefore Mr. *Grenville* proposed, that all complaints of undue elections should be tried by a small number of the members drawn by ballot, and sworn in the manner of a jury; their decision to be final, excepting in disputes concerning right of election, which should be referred to the house, and decided according to prescription; no member to be twice drawn, but by his own consent, &c. It passed into a law, to be in force seven years; and may perhaps be of some service, though it can do but little toward a radical cure of the evil. For, supposing the generality of a house of commons to be under corrupt influence, the majority of any committee drawn from thence by ballot, or any how, will be under the same influence.

These

These *partial* reformati<sup>ons</sup> *amuse* the people, and by *disappointing* their ill-founded expectations, *discourage* them against such proposals, as would prove *effectual*. This is the fatal effect of letting abuses alone so long, till becoming inveterate, and seizing the vitals of the constitution, they are not to be removed but by methods too rough as well as too operose for the *inertia* of the people, who will let themselves be totally enslaved, rather than engage in such a scheme for redress, as may be attended with some difficulty and danger; as a corpulent, lethargic patient, who chuses rather to die of a complication, than enter upon a course of rough and searching remedies.

## CHAP. IV.

*Of Ministerial Influence in the House.*

**T**O endeavour to gain an undue influence over the members of the house of commons, is an old trick of our worst kings and ministers. It is true, they often carried things with a high hand, secure of what parliament should take well or ill. But violent measures are always dangerous; and it was uncertain how far the people's patience would bear. What was done under the umbrage of parliament had the appearance of just and constitutional government, and was likely to hold the longest. Our crafty statesmen, therefore, chose to have parliament with them as much as they could.

\* We think ourselves safe, says *Nedham*, because we have *parliaments*; but we do not consider, that we may be as effectually ruined by *corrupt* parliaments

‘as by ambitious tyrants. And corruption long established becomes a part of the constitution, and grows more and more difficult to eradicate. We understand our constitution to be in danger, not only when it is attacked, but as soon as a breach is made, by which it may be attacked, and we understand this danger to be greater or less in proportion to the breach that is made, and without any regard to the probability or improbability of an attack. This explanation of our meaning is the better founded, because the nation hath an undoubted right to preserve the constitution not only inviolate, but secure from violations.’

‘If (says *Voltaire* <sup>b</sup>) in *Holland* and *England*, the states had consisted only of nobles and clergy [without an assembly of deputies] the balance of *Europe* had not been in their hands in the year 1701.’ And if the house of commons of *England* comes to be, through the influence of corruption, so enslaved to the court as to have no will of its own,—need I to add the consequence? If parliaments be good for any thing, independent parliaments are alone good for any thing. Suppose a parliament dependent on the court; and you make it a licensed tyranny, instead of a free government; a burden and an incumbrance, instead of an advantage. If elections into the house, and votes in it, are good for any thing, free elections and votes are alone good for any thing. In an influenced election, or dictated vote, the influencing minister is the nominator of the member, and the sole legislator.

By 2 *Geo. II.* cap. 24. the last determination of the house of commons is to decide finally what votes shall be

<sup>a</sup> DISSERT. ON PARTIES, 215.

<sup>b</sup> ESS. SUR. L'HIST. II. 187.

be legal in every city, or burgh. But a corrupt house of commons will naturally throw the votes into the hands of the corporation, rather than of the inhabitants at large, because it is easier to bribe a few than many, this power is therefore lodged in wrong hands, considering the character of our modern houses of commons.

If a resolution of the house of commons is thus to determine who has right of voting, surely the independency of the house of commons is a matter of infinite consequence. For a corrupt house may, by a resolution, reduce the 5,700 voters, who now send in the majority of the members for England, to 1000. They may throw the power of sending the members into the hands of the king and council, and deprive the people of even the mockery of choosing representatives; which is all they have at present.

“*Parliamentaria comitia veteres, &c.* Parliament has power to repeal old laws, and to establish new; to make regulations for times present and future. Parliament can decide all matters of property; it can give legitimacy to the spurious; it establishes public worship; appoints weights and measures; determines the succession to the crown; decides all controversies without appeal, where there is no law by which to judge; it lays on taxes; it pardons offences; it supports the oppressed and punishes the oppressor; it has power of life and death; in short, the power of doing whatever could be done by the *comitia centuriata*, or *tribunitia*, that is to say, by the whole people of Rome.”

The house of commons claims to itself, as we have seen above, many important and interesting privileges, and runs far into the executive, inflicting, in consequence, not of the known laws of the land, but of the undetermined *lex et consuetudo parliamenti*, various pains and penalties upon the subjects, its creators. It is therefore of great consequence to the people, that this irresistible assembly be as little as possible obnoxious to every evil byass and influence.

The sycophants, who surround our kings, tell them, all is well. Here is a parliament regularly assembled every year. And every thing of consequence is carried on according to the letter of the law, and the customs of our ancestors. The same might have been said in the time of *Augustus*, and all the best of the *Roman* emperors. There were consuls, senators, tribunes, prætors, as in the republican times. But the efficiency was all in the emperor and his court, and army <sup>a</sup>. So, in our times (the present always excepted) we have seen parliaments regularly chosen—by bought votes, and court-influence; and regularly proceeding in the house—according to the orders of the ministry.

A writer <sup>b</sup> in king *William's* time states the matter fairly. 'The corrupting of parliaments (says he) defeats all our hopes, poisons us in our mother's milk, murders us by the hands of our parents, infects the only cordial, that can preserve our being, makes us accessory to our own fate, betrays us by the hands of those, whom we choose to represent us, makes us slaves to our protectors,' &c.

A little

<sup>a</sup> *Tacit.* ANN. pass.

<sup>b</sup> ST. TRACTS, time of king *William*, II. 646.

A little matter wrong in a thing of such consequence as a parliament, may do great mischief. A ministerial speaker of the house of commons may throw the whole debate into the hands of his own party, if a resolution be carried, That the member, to whom the speaker points, shall be heard. And there is nothing to hinder the passing of such a resolution in a ministerial house of commons. The custom has been for the *house* to decide, when a debate arose, which member was up first, unless they chose to leave it to the speaker. Attempts have lately been made to change this custom.

Foreign nations say, and say truly, that a king of *England*, in conjunction with his parliament, is as great and dreadful a prince as any in *Europe*.<sup>c</sup> Chancellor *Pinch*'s speech at the opening of *Charles II.*'s third parliament. But this is supposing the parliament honest to the people.

The corruption of governments (says the czarina<sup>c</sup>) generally begins by the corruption of its principles. The principle of government in a free state is, The people's love of their country. The principle of the *British* government is, An independent house of commons. If that be safe, all is safe. If that be violated, all is precarious.

Parliament, the fountain of justice, ought to be preserved pure from corruption, and free from partiality, which would add not only lustre, reputation, and honour, but authority to what is done in parliament. All mens estates and liberties are preserved under the safe custody of parliament. This

moveth

<sup>a</sup> *Alm. DEB. COM. IX. 233.*

<sup>b</sup> *DEB. COM. I. 320.*

<sup>c</sup> *INSTR. 190.*

‘ moveth us to be careful of any thing that may pre-  
 ‘ judice parliament in point of integrity ‘.

The least appearance of corruption, where all ought to be virgin purity, is execrable. ‘ In parliament’ ( according to the duke of *Glocester* and bishop of *Ely*, in their speeches to *Rich. II.* in his 12th year, at *Eltham*, *A. D.* 1389, handed down to us by the old historian *Knigh-ton* <sup>b</sup>) ‘ all equity  
 ‘ ought to shine forth without the least cloud or shadow, like the sun in his meridian glory,’ &c. The state is a ship, and it sails in a sea of corruption. If there were the smallest chink in the vessel, corruption would flow in. But we open our lowest gun-ports, to let it in freely,

‘ When a private man receives any advantage to  
 ‘ betray a trust; one, or a few persons, may suffer.  
 ‘ If a judge be corrupted, the oppression is extended  
 ‘ to greater numbers. But when legislators are bribed,  
 ‘ or, which is all one, are under any particular engagement, that may influence them in their legislative capacity, then it is, that we may expect injustice to be established by law, and all those consequences which will inevitably follow the subversion of the constitution, as standing armies, oppressive taxes, and slavery; whilst the outward form only of the antient government remains to give them  
 ‘ authority ‘.

The government of *England* has all the advantages, says *Voltaire* <sup>d</sup>, of monarchy, aristocracy, and democracy, but it is liable to their inconveniences; so that it cannot subsist, but under a wise prince. He had  
 come

<sup>a</sup> *Rap.* II. 383.

<sup>c</sup> *Fletcher*, 76.

<sup>b</sup> *Petry's MISCEL. PARL.* 50.

<sup>d</sup> *Ess. SUR L'HIST.* II. 113.

come much nearer the truth, if he had said, it cannot subsist but with an incorrupt house of *commons*.

Suppose our court should take the legislative power into its own hands, and omit calling a parliament for 7 years together. Should we not say, 'Chaos is come again?' What is the difference to the nation between calling no parliament and calling a set of bribed slaves the ready tools of the court? The reader sees, I mean no reflexion on the present immaculate parliament,

'If the people of *England* once be corrupted in that which is the fountain of their liberties, their own representatives in parliament assembled, they must expect nothing but the flowings forth of tyranny and mischief upon them, in and by their very laws, and that which should be their chief and only remedy against all other evils, would by this means become the greatest cause and author of them.' Parliament's answer, 1650, to a canting manifesto of *Charles II. in Scotland*.

'The high court of parliament is the most certain and constant guardian of liberty; but if it be deprived of its own liberty, it is left without life or power to keep the liberty of others. If they should bring parliament to be subject to the king's pleasure, to be correspondent, as they call it, to the king's will, in the midst of such evil counsellors as are now predominant, there would little or no cure be left, for then all things that are most mischievous would seem to be done by law and authority.' *Pym's* speech at *Guildhall*.

Our artless ancestors, on most occasions, and particularly in framing the bill of succession, shew, that they

<sup>a</sup> *PARL. HIST.* XIX. 379.

<sup>b</sup> *Ibid.* XII. 292.

they took it for granted, a parliament would never consent to any thing *wrong* in compliance with the court. \* *England shall not go to war on account of any foreign dominion belonging to any future sovereign, without consent of parliament.* The sovereign shall not quit the kingdom *without consent of parliament.* &c. Little did they think of a time coming, when consent of parliament might be obtained to any thing the ministry should ask.

*Quid quisque vitat nunquam homini satis*

*Cautum est in horas.*

*Hor.*

Yet they seem, at some periods, to have been jealous of the encroaching disposition of ministers, and aware of the truth of the doctrine, which this section teaches, *viz.* That corrupt parliaments are slaves to ministers; for it has been criminal formerly in a speaker of the house of commons to go to court, says the author of *Considerations on the choice of a speaker*, &c.

A late writer says, he shall conclude the principle of parliament to be totally corrupted, when he sees two symptoms, *viz.* 1. A rule of indiscriminate support to all ministers; because this destroys the very end of parliament as a controul to ministers, and is a general previous sanction to misgovernment. 2. The setting up of any claims adverse to free election; for this tends to subvert the legal authority, by which they sit. How much we want of seeing these symptoms in their perfection, let the reader judge.

It is miserable to observe, in reading the PARLIA-

MENTARY

\* *DEB. COM. III. 130.*

† *ST. TRACTS, time of king William, II. 651.*

MENTARY HISTORY, the DEBATES of the lords and commons, the MAGAZINES, REGISTERS, &c. that the sense and the patriotism are almost always (our own virtuous times excepted) on the side of the protesting lords, the minority in the house of commons, and the writer of the MAGAZINES or REGISTERS, and against the proceeding of the houses, which are ofteneft wrong-headed, or wrong-intentioned. Yet our houses of parliament take in grievous dudgeon any reflexion on their wisdom or integrity, and wonder, that the people shew a want of respect for them, though the people see plainly, that a Magazine-writer has more sense, or more integrity, than the majority of the two houses. Which strange phenomenon can only be ascribed to ministerial poison working in the houses.

‘ Every body knows, that the antient dread of this  
 ‘ nation was of the prerogative. Lest our princes should,  
 ‘ like those of *France*, grow weary of parliaments,  
 ‘ and resolve to govern by will and pleasure. Every  
 ‘ body knows likewise, that the reason of our tender  
 ‘ concern for, and attachment to parliaments, was a  
 ‘ long established persuasion,—That by their assistance  
 ‘ our grievances would always be redressed; That under  
 ‘ their umbrage, our liberties would always be safe.  
 ‘ But even our very princes were originally and constitutionally no more, than the guardians of these  
 ‘ liberties; and if they could be capable of breach of  
 ‘ trust, might not our parliament likewise deviate into  
 ‘ the same crooked road? If therefore those princes,  
 ‘ on conviction that it was not only vain, but a desperate  
 ‘ undertaking, to wrestle with parliaments, should  
 ‘ find it expedient to compromise the affair with them,  
 ‘ and agree to divide the commonwealth between  
 ‘ them, would not parliaments themselves become a  
 ‘ grievance?

• grievance? Would not our representatives become our  
 • masters? Would not their constituents become their  
 • slaves? Thus, if the course governing *without* a  
 • parliament was justly the object of our terror; if its  
 • governing *with* a parliament was as justly the object  
 • of our wishes; its governing *by* a parliament would  
 • be an infallible method not only to compass but  
 • give sanction to our ruin. With regard to the first  
 • of these governments, our terrors have long num-  
 • bered. For while we so freely give, why should the  
 • sovereign take? And with regard to the last—*Hinc*  
 • *illæ lachrymæ*.—We have in these papers proof to  
 • demonstration, that from a certain period our parlia-  
 • ments have done what they should have left undone,  
 • and have left undone what they should have done:  
 • That to the calls of the crown they have always an-  
 • swered; That to the cries of the people they have  
 • been always deaf; That they have purchased on one  
 • hand only to sell on the other; That they have waived  
 • their privileges in compliment to the prerogative,  
 • and put them to the stretch, to oppress and subdue  
 • the subject; That instead of redressing grievances,  
 • they have authorized them; That instead of pro-  
 • secuting malefactors, they have screened them; and  
 • that instead of protecting and defending the rights of  
 • their constituents, they have perfidiously betrayed  
 • them. Hence it is manifest, that the constitution is  
 • every where undermined, and at the first sound of  
 • the trumpet, like the walls of *Jericho*, it will sink at  
 • once into a heap of ruins. In vain do we amuse  
 • ourselves with the hope that some future parlia-  
 • ment will rectify the evils committed or con-  
 • nived at by the past. Had we any chance of work-  
 • ing out our own salvation, as it hath been once  
 • already

' already observed, 'tis more than probable we should  
 ' not be trusted with the opportunity. By the same  
 ' violence that one parliament, chosen but for three  
 ' years, could prolong their own sitting for seven, any  
 ' other may presume to render themselves perpetual.  
 ' Experience shews us, that the writ of election to a  
 ' borough, and the *conge d'elire* to a dean and chap-  
 ' ter, already operate in pretty much the same man-  
 ' ner; That those in power are always sure of finding  
 ' or making a majority in both houses; That the  
 ' dictates of the privy council, or first minister, are  
 ' uniformly received by that majority as laws; That  
 ' the grand secret of government is to fleece with one  
 ' hand and corrupt with the other; and that the sole  
 ' relic of the people's power, is the glorious privilege  
 ' to sell themselves as often as they are favoured with  
 ' leave to make a new election. So fatally true is the  
 ' maxim of that great statesman *Burleigh*, that *Eng-  
 ' land* can never be undone but by a parliament. In  
 ' a word, so great is the influence of the crown be-  
 ' come, so servile the spirit of our grandees, and so  
 ' depraved the hearts of the people, that hope itself  
 ' begins to sicken; and those who are disposed to go  
 ' farthest in the cause of the commonwealth, are on the  
 ' point of crying out, "If the people will be enslaved  
 ' let them be enslaved." Let it then be recollected  
 ' in this our day, that even the authority of parlia-  
 ' ment has a bound: That they are not empowered  
 ' to sell, but to serve, their constituents: That who-  
 ' ever accepts of a trust is answerable for the exercise  
 ' of it: That if the house of commons should make  
 ' ever so solemn a surrender of the public liberties into  
 ' any hand whatever, that surrender would be *ipso  
 ' facto* void: That if the people have reason to appre-  
 ' hend

‘hend any such conspiracy against them, they have a  
 ‘right not only to put in their protest, but to renounce  
 ‘the deed, and refuse obedience: That in such a  
 ‘case, the delegation they had made would be dis-  
 ‘solved: That consequently all authority would re-  
 ‘turn into the hands of those who gave it; and with  
 ‘one united voice they might call on the prerogative  
 ‘to do them justice by dismissing such unfaithful  
 ‘servants, and enabling them to make a new choice.’

So clumsy have our courtiers been as to insist openly  
 on the propriety of ministerial influence in the house  
 of commons, as appears by lord *Digby*’s words in his  
 speech against *Walpole*, A. D. 1741. ‘Sir, It is a  
 ‘new doctrine in this nation, and absolutely incon-  
 ‘sistent with our constitution to tell us that his ma-  
 ‘jesty may and ought, in the disposal of offices or  
 ‘favours, to consider gentlemen’s behaviour in this  
 ‘house. Let his majesty be ever so well convinced of  
 ‘the wisdom and uprightness of his measures, he  
 ‘ought not to take the least notice of what is said or  
 ‘done by any particular man in this house. He is a  
 ‘traitor to our constitution that advises his majesty to  
 ‘do so.’

Nothing can be imagined more impudent, than the  
 attempt of some among us, to lull our jealousy, which  
 needs all the eyes of *Argus*, asleep, by telling us, it  
 is impossible, that 800 lords and commons should ever  
 take part with the enemies of their country, or its  
 liberties. Do we not know, that in the four last  
 years of queen *Anne*’s reign, a majority in the house  
 of commons, and a very great number in the other,

were

<sup>a</sup> USE AND ABUSE OF PARL. II. 714.

<sup>b</sup> DEB. COM. XIII. 198.

were in the interest of *France* and the pretender, and that if that ill-advised prince had not dropped at the time she did, the nation was in the utmost danger of being sacrificed. See all the histories of those times.

The majority of the commons, *as in 1706*, were whigs. In the last four years they were tories. Such is the influence of the court over the commons.<sup>a</sup> For the court interposes both in the elections of members, and in their votes in the houses.

How therefore judge *Blackstone* could bring himself to write the following sentence, is to me inconceivable. 'The check of parliamentary impeachment for improper, or inglorious conduct, in beginning, conducting, or concluding a national war, is, in general, sufficient, to restrain the ministers of the crown from a wanton, or injurious exertion of this great prerogative.' Was the check of parliamentary impeachment sufficient to restrain the worthless ministries, who conducted and concluded two wars in a most infamous manner, one in the memory of some, and the other of many now living. I mean the wars, which were terminated with the disgraceful treaties of *Utrecht*, and of *Aix-la-Chapelle*? How could a man do his country a greater injury, than by thus labouring, as the judge does through almost his whole book, to persuade, that *every thing is right*, when there is so much requiring redress?

'As private liberty cannot be deemed secure under a government, wherein law, the proper and sole security of it, is dependent on will, so public liberty must be in danger, whenever a free constitution, the proper and sole security of it, is dependent on will;

B b 2

and

<sup>a</sup> DEB. COM. VI. 60.

\* and a free constitution, like ours, is dependent on  
 \* will, whenever the will of one estate can direct the  
 \* conduct of all three. By the will of one estate the  
 author means the will of the king, the court, or the  
 ministry, which three terms are always, in our British  
 politics, to be considered as exactly synonymous.

It is shocking to an *Englishman* to read the account  
 given by a *French* author of the state of parliamentary  
 corruption in our country. Tell it not in *Gath*:  
 Publish it not in the streets of *Askelon*. No sooner,  
 says *Reynal*, is parliament met, than the parties are  
 formed; the canvassing begins, and the cabals clash  
 against one another. Those who hold the first places  
 in the government, endeavour to gain, by the pen-  
 sions, places, and favours, which are in their dispo-  
 sal, such members as they stand in need of. King  
*William* said, If a king of *England* had places enough  
 to give, the names of whig and tory would soon be  
 lost. Those, who are neglected, unite in violently  
 declaiming against such as have suffered themselves to  
 be gained, &c. And again, The peers, especially  
 the bishops, have not that credit in the nation,  
 which they ought naturally to possess; because it  
 is imagined, they are almost all dependent on the  
 court, either on account of favours received, or  
 hoped for.

By our constitution, (says Sir *William Wyndham*  
 in the debate upon the motion for repealing the sep-  
 tennial act, *M. D. 1734*) the only legal method we  
 have of vindicating our rights and privileges against  
 the incroachments of ambitious ministers is by par-  
 liament;

\* DISSERT. UPON PARTIES, 216.

\* HIST. ENGL. PARL. 277.

\* Ibid. 279.

'diament; the only way we have of rectifying a weak  
 'or wicked administration is by parliament; the only  
 'effectual way we have of bringing high and powerful  
 'criminals to condign punishment is by parliament.  
 'But if ever it should come to be in the power of the  
 'administration to have a majority of this house de-  
 'pending upon the crown, or to get a majority of  
 'such men returned as the representative of the people,  
 'the parliament will then stand us in no stead; it  
 'can answer none of these great purposes. The  
 'whole nation may be convinced of the weakness or  
 'the wickedness of those in the administration, and  
 'yet it may be out of the nation's power in a legal  
 'way to get the fools turned out, or the knaves  
 'habited. This misfortune, Sir, can be brought upon  
 'us by nothing but by bribery and corruption, and  
 'therefore there is nothing we ought to guard more  
 'against. Now your lordship is to enquire whether  
 'the king (for the time being) whether he thinks  
 'he should be in danger of losing the crown of these  
 'realms, if he did not bribe. He will answer with  
 'indignation, that his throne is established upon a much  
 'firmer foundation. Ask the ministry, whether they  
 'think they must lose their places, or their heads, but  
 'for bribery. They will perhaps answer, as their bet-  
 'ters did, when justly charged, 'Man, I know not  
 'what thou sayest.' Ask the bribing lord, who has  
 'half a dozen rotten boroughs in his sleeve, whether  
 'he means, by giving the beggarly perjured voters  
 'money, to bias them from electing according to their  
 'consciences. He will answer, He had rather die,  
 'than injure his dear country. Ask the bribing can-

B b 3

didate,

didate, Whether, knowing himself not likely to be chosen for his *merit*, he means to *buy* a seat. He will answer, He goes into the house merely with the view of serving his country. Ask the venal member, Whether he plunders his country of 500 *l.* a year as a reward for consulting, in every vote, her good. He will answer, He votes spontaneously, and without any view to the minister's approbation. Ask the *Cornish* elector how he answers to his conscience the selling of his country. He will answer, He takes the money, and votes *according* to his conscience. Thus, from our kings (who indeed have the least hand in the plot) down to our bought borough-voters, no one, of either the givers or receivers, can give any account why any thing should be given or received.

\* Those men are undoubtedly guilty of treason, 'who, being entrusted with the wealth, security, and happiness of kingdoms, do yet knowingly pervert that trust to the undoing of that people, whom they are obliged, by all the ties of religion, justice, honour and gratitude, to defend.\*' Treason equally extends to those, who would subvert either house of parliament, or the rights and privileges of the people, as to those who attempt to destroy the person of the king, or dethrone him. For, what could be more absurd, than to suppose it to be the highest crime to attempt to destroy *one man* because this *one man* is a king; and yet not to suppose it the highest crime to destroy that *people* for whose benefit *alone* he was made king, and for whose sake indeed there ever was such a thing, as a king, in the world.

The

The great corrupt, the people, (says Mr. Gordon\*) by all manner of ways and inventions, and then reproach them for being corrupt. A whole nation cannot be bribed; and if its representatives are, it is not the fault, but the misfortune of the nation; and if the corrupt save themselves by corrupting others, the people who suffer by the corruptions of both are to be pitied, and not abused. Nothing can be more shameless and provoking than to bring a nation by execrable frauds and extortions, against its daily protestations and remonstrances, into a miserable pass, and then father all these villainies upon the people who would have gladly hanged the authors of them. At Rome the whole people could be entertained, feasted, and bribed; but it is not so where the people are too numerous and too far spread, to be debauched, cajoled and purchased; and if any of their leaders are, it is without the people's consent. There is scarce such a thing under the sun as a corrupt people, where the government is uncorrupt; it is that, and that alone which makes them so; and to calumniate them for what they do not seek, but suffer by, is as great impudence, as it would be to knock a man down, and then rail at him for hurting himself.

Those, who complain of corrupt and wicked ministers, and of the mischiefs they produce, do in fact (as observed by Mr. Hume in his IVth Polit. Ess.) most severely satirize the constitution. For a good constitution would effectually exclude, or defeat, the bad effects of a corrupt administration. Is there, or has there been, corruption in parliament? I should

B b 4

wonder

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\* TRACTS, I. 338.



that the one man, their prince is mortal, and if bad, he may be succeeded by a better; but a people thoroughly corrupted, never returns to right reason; and we see that the depravity of manners, which began in Rome presently after the second Punic war among the nobility and gentry, became every year worse and worse, till at last Cæsar destroyed the commonwealth. And after his time, under the succeeding emperors, every senate grew more sordid and complying than the other; till in process of time the old Roman spirit was utterly extinguished, and then that empire by degrees became a prey to barbarous nations. Hitherto it has been thought the highest pitch of profligacy to own, instead of concealing crimes; and to take pride in them, instead of being ashamed of them. But in our age men have soared some pitch still higher. The first is common; (it is the practice of numbers, and by their numbers they keep one another in countenance.) But the stupid spirits of these days, the men of modern politics, are far from stopping where criminals of all kinds have stopped; when they have gone even to this point; for generally the most hardened of the inhabitants of *Norway* do not go so far. The men of spirit of, contend, that it is not enough to be vicious by practice and habit, but that it is necessary to be so by principle. They make themselves missionaries of faction, as well as of corruption. They recommend both; they denounce all such as imagine it possible or fit to remain still, stilling and a disinterested regard to the public in public life, and pronounce every man a fool, who is not ready to act like a knave.

Corruption

\* *Belingbr, IDEA OF A PATRIOT KING, 181.*

Corruption brings a government into contempt not only with the subjects, but with foreigners. *A. D.* 1735, in *Walpole's* dirty administration, the *French* shewed such a contempt for *England*, that they published an edict, commanding all *English* subjects in *France*, to quit *France* in a fortnight, or enlist in their army, on pain of the gallies. To the same cause was owing the *Spanish* insolence, which they carried to such a height, that when they cut off capt. *Jenkins's* ear, they bid him carry it to his king, and tell him they would serve him so, if they could. To the same cause may be ascribed the insolence of the *French*, *A. D.* 1748, in demanding (and, O shame to Britain! obtaining) hostages at the peace of *Aix-la-Chapelle*; and their violating that treaty by hostilities, before it was well signed and sealed. Would *France*, or *Spain*, have dared to treat *England* so in the days of *Cromwell* or of *Pitt*? But parliament defended *Walpole* and the *Pelbams* as strenuously as they would the wisest and best ministers. Very different from the spirit of the following, which speaks the sense of every free and honest man, who has ever thought on the subject.

‘Not only that government’ (says the brave *Fletcher* of *Scotland*) ‘is tyrannical, which is tyrannically administered, but all governments are tyrannical, which have not, in their constitution, a sufficient security against arbitrary power’. Has any man in the world the impudence to say, this nation has any constitutional security against arbitrary power, supposing parliament by interest attached to a corrupt court?

Sir *Arnold Savage*, speaker of the House of commons under *Hen. IV.* says, ‘The three estates, king, lords, and

' and commons, are like the trinity, three in one, and ought to be perfect in unity, or agreement.' A wise and good prince will always agree with an incorrupt parliament; and then the nation might see, with satisfaction, Sir *Isaac*'s whimsical idea realized. But it is easy to imagine a condition of things, in which Athanasianism would be as little desirable in the state as in the church. I mean, supposing a weak, a wicked, or a too ductile prince on the throne, a designing court, and a house of lords and commons attached to its villainous interests and views by places, pensions, bribes, contracts, lotteries, and promises. In such a state of things, all men of honest and independent principles will ever be professed heretics.

“ Setting aside the dangers, foreign and domestic, that arise from profusion in what belongs to the public; it depraves all the different ranks of men; for, in profuse governments it has been ever observed, that the people from bad example have grown lazy and expensive; the court has become luxurious and mercenary; and the camp insolent and seditious. Where waste of the public treasure has obtained in a court, all good order is banished, because he who would promote it, and be frugal for his prince, is looked upon as a common enemy to all the rest. Virtue is neglected, which raises men by leisurely steps; whereas vice and flattery will, in a little time, under a ministry, who mind not what is given away, bring a man to a great estate; nor is industry cultivated where he does his business sufficiently, who knows which way to apply, and how to beg in a lucky and critical moment: And at such a season, many of the people's representatives lose

lose their integrity, when they see others running from every bench [the seats in the house of commons] to share in the universal plunder of a nation." "Because, in all their doings and counsels, corrupt men have never had any view but their own private profit, they will do their best to persuade the world that no man acts upon principle; that all is swayed by particular malice, and that there is not left in the kingdom any party of men which consults the public good."

It is said, we have lately got a new state officer, called, The *minister* of the house of commons, which, being interpreted, signifies, I suppose, the *Noff-leader*, of that august assembly. It is always to be understood, that I mean no reflection upon the present times, which are always immaculate, while they are present. But we have in the *LOND. MAG.* 1767, an account of this officer, as follows: "The marquis next proposed Mr. *Craw* for secretary of state, and minister of the house of commons." On which the note is, "This officer is but of modern institution, and to the inexperienced reader may require some explanation. The first we find upon record is he, who in Nov. 1755, couched his first written instructions in the following words:

"Sir, the king has declared his intention to make me secretary of state, and I (very unworthy, as I fear I am, of such an undertaking) must take the conduct of the house of commons; [that is, I must undertake to lead the house into all the schemes of the court.] "I cannot, therefore, well accept the office, till after the first day's debate, which may be a warm one;" [because the first day will

shew

shew the comparative strength of the court, and the opposition. "A great attendance that day of my friends" [not the friends of liberty and the constitution] "will be of the greatest consequence to my future situation," [because it will shew the opposition, that the court is irresistible] "and I should be extremely happy if you would, for that reason, shew yourself amongst them." [not to the advantage of your country, but] "to the great honour of H. P." &c.

The courtly gentlemen, like church-men, are wont to stave off all proposals for reformation, by alledging that the present is an improper time. And we have seen parliament too ready to come into the views of the court. But Mr. Sydenham shews in his speech, 4. D. 1745, in the house of commons, that he thinks checking corruption is at all times seasonable, even though a rebellion were actually raging in the heart of the country. "Sir, I am surpris'd to hear gentlemen accused or suspected of a design to subvert the government on account of a motion calculated, in my opinion, better than any other to reconcile the minds of the people to our present establishment, and to induce them to join unanimously and heartily in any measures, that may be necessary, for defeating the present rebellion. Whatever spirit may now appear among the people, we cannot forget, Sir, the spirit that appeared to generally amongst them, but a little while before, against corruption, and in favour of those bills that have already been several times offered to parliament for preventing it." —And afterwards— "We are not to suppose, Sir, that

the people have forgot their complaints, because they  
 have not renewed them upon this occasion. They  
 have so long complained in vain, and have lately  
 been so much disappointed by those upon whom they  
 chiefly relied, that I am afraid, their not renewing  
 their instructions to their members, proceeds from  
 their despair of ever meeting with redress from par-  
 liament. But will this remove or diminish their  
 discontent? On the contrary, we have more reason  
 to dread their silence, than we ever had to dread  
 their murmurs; for mankind resemble, in this, that  
 animal which is their most faithful servant; while  
 they bark they never bite. Have they ceased com-  
 plaining? As they have yet received no satisfaction,  
 we have, from the nature of mankind, just reason  
 to presume, that they have begun to think of act-  
 ing; and this, at such a dangerous conjuncture,  
 we ought to prevent, by giving them, as soon as pos-  
 sible, an assurance that they may expect redress  
 from this session of parliament. — Afterwards he goes  
 on — “The hon. gentleman says, he should be against  
 the introducing of such bills while there is a rebel-  
 lion raging in the kingdom, because he thinks, we  
 may have an opportunity to get them passed after  
 the rebellion is entirely extinguished. If I thought  
 so, Sir, I should be very willing to have them de-  
 ferred till the next session; but if we do not catch  
 this opportunity, when some gentlemen’s personal  
 safety may prevent their opposition, I am, both  
 from reason and experience, convinced, we shall  
 never be able, in a peaceable manner, to get any  
 such bill passed into a law. The set of gentlemen  
 I have mentioned, will always oppose such bills,  
 because it is their interest not only to support, but

' to propagate corruption; and from experience, I  
 ' am convinced, that they will always have so much  
 ' influence as to get a majority in this house for pre-  
 ' venting any such bills being brought in; or a majority  
 ' in the other house for having it rejected. This I  
 ' am the more convinced of, from what the hon. gen-  
 ' tleman, and a worthy friend of his, have said against  
 ' the amendment. There is a thing called proper or  
 ' seasonable opportunity, that will always furnish a  
 ' man with a pretence for opposing, when a minister,  
 ' those bills and motions, which he patronized, when  
 ' a country gentleman; and I have now several gentle-  
 ' men in my eye, who, I believe, will always declare  
 ' themselves zealous for preventing a corrupt influ-  
 ' ence in parliament, or at elections, but will never,  
 ' as long as they continue ministers, or the favourites  
 ' of ministers, find a seasonable opportunity for bring-  
 ' ing in an effectual bill for that purpose. Such gen-  
 ' tlemen may perhaps consider the dangerous conse-  
 ' quence of throwing out a popular bill at this juncture,  
 ' therefore, tho' they know it will breed them a great  
 ' deal of trouble hereafter, they may for their imme-  
 ' diate safety, agree to its being passed into a law.  
 ' If they and their friends agree to it, I will engage  
 ' that no such bill shall occasion any division or alter-  
 ' cation amongst us; and we may with the more free-  
 ' dom embrace this opportunity, because such a bill  
 ' can no way prevent or retard any thing the parlia-  
 ' ment can do for defeating the rebellion.—After-  
 ' wards he adds—The people of *Britain* have been  
 ' long grumbling: Give them satisfaction. Let them  
 ' see they have something to fight for, I warrant you  
 ' they will do it. But under an arbitrary govern-  
 ' ment, whether established by force or corruption,  
 ' the

' the people have neither liberty nor property, and  
 ' in this age I doubt much if they will fight obdi-  
 ' nately for their religion, even supposing they were  
 ' all convinced of its being at stake. I therefore hope,  
 ' Sir, that we shall in this session (come of the rebel-  
 ' lion what will) pass some proper bills, for preserving  
 ' our constitution and liberties against corruption, and  
 ' if we are resolved to pass any such bills in this session,  
 ' we ought to intimate our resolution in our address upon  
 ' this occasion, in order to encourage the people to stand  
 ' by, and support the present establishment in this time  
 ' of imminent danger.'—Afterwards, he adds:—Does  
 ' not his majesty tell us that he has called us together,  
 ' to give him our immediate advice as well as assistance  
 ' with regard to the rebellion, still continuing in  
 ' Scotland? Can we give him our advice in a more  
 ' deliberate and authentic manner, than by framing  
 ' and passing such bills as we think will best induce  
 ' the people to assist him heartily? We cannot do  
 ' this immediately, and therefore by way of answer  
 ' to this part of his speech, we ought to tell him im-  
 ' mediately, that is to say by our address, that we  
 ' will do so. There is another part of his majesty's  
 ' speech, Sir, which, in my opinion, will stand with-  
 ' out any thing like an answer, if this amendment be  
 ' not agreed to. His majesty tells us, he questions  
 ' not but the rebellion will end in procuring greater  
 ' strength to that excellent constitution, which it was  
 ' designed to subvert. In answer to this, is it not very  
 ' proper to tell his majesty, that we shall take care in  
 ' this session to frame such bills as, if passed into  
 ' laws, will add strength to our excellent constitution.  
 ' Is then any thing more proper or necessary for add-  
 ' ing strength to our constitution, than that of pre-  
 ' venting

venting a corrupt influence in parliament or at elections? This amendment is therefore not only a proper, but a necessary return to that part of his Majesty's speech: I say necessary, Sir, because I think it absolutely necessary for us, in a time of such danger, to take the first opportunity to assure the people of their having that grievance redressed, which they have long and loudly, but vainly hitherto, complained of; and because, without this amendment, not only our address will appear defective, but we shall appear deficient in our duty to our sovereign; for there will be, otherwise, manifest proof of answer to this material part of his Majesty's speech, not one word of advice or anything in the least like it, though his Majesty himself in his speech expressly told us, that for this very purpose he called us together sooner than he intended: And now to conclude, Sir, as the noble gentleman was gallied to tell somewhat the world will think of the effect in fact upon this amendment; I shall beg leave to tell him, what in my opinion, the world will think of those that oppose it. The world will, I am sure, generally approve of the amendment, and will conclude, that if it had been agreed to, it would have done great and immediate service, if there is any man will say that the opposers of this amendment, notwithstanding their open pretences and insidious insinuations of corruption, and that they have a greater regard to the interest and ease of those who are against, or may hereafter be, our constituents, than they have to the security of their sovereigns, the happiness of their country, or the liberties of their countrymen.

Sir *Francis Dashwood* on that occasion, proposed, that the following paragraph should be inserted in the address of the commons; "In order to the firmer establishment of his majesty's throne on the solid and truly glorious basis of his people's affections, it shall be our zealous and speedy care to frame such bills as (if passed into laws) may prove most effectual for securing to his majesty's faithful subjects, the perpetual enjoyment of their undoubted right, to be freely and fairly represented in parliaments, frequently chosen, and exempted from undue influence of every kind; for easing their minds in time to come, of the apprehensions they might entertain of seeing abuses in offices rendered perpetual, without the reasonable interposition of parliament to reform them; and for raising in every true lover of his king and country, the pleasing hopes of beholding these realms once more restored to that happy and flourishing state which may reflect the highest honour on his majesty's reign, and cause posterity to look back with veneration and gratitude on the source of their national felicity."

Many ages have passed since the first tampering with parliaments. It is not easy to understand how a wicked court should be able to mis-lead a parliament without money, or other baits; but we have instances of it. In antient times our members of the house of commons were very ignorant, poor, and brought up by the priests with notions of slavish submission to their barons or to their kings. The commons, therefore, too often consented to their own deception and enslaving. In more enlightened times our parliaments

ments have been fairly bribed with places, pensions, contracts, lotteries, &c.

There was a villainous packed parliament under Rich. II. *A. D.* 1397. The king had changed all the sheriffs, and put in wretches attached to himself. All the public offices were put into the hands of his creatures. The king nominated the members for each place, and the placemen supported the king's nomination. The parliament in 1386, had obtained the removal of the villainous favourites, the earls of *Oxford*, *Suffolk*, &c. All the acts of that upright parliament were repealed, and every thing done to advance the prerogative above the laws. Many brave patriots were put to death, and the barbarous king chose to be present at some of these horrid scenes. They give up all their authority to twelve lords, and six commonsers, the most devoted to the king's will. This instance (says *Rapin*) shows that it is not impossible but that the very parliament, which is designed to maintain the privileges of the nation, may throw it into slavery, when such assemblies are directed by popular factions, [popular factions are always produced by ministerial oppression; the people of themselves are inclined to be quiet] or the cabals of an ambitious prince, which, either by running the prerogative down too low, [prerogative too low is hardly conceivable] or screwing it up too high, has often produced disorder, and destroyed all law, instead of procuring the welfare of the kingdom.

Enquiry was made, *A. D.* 1550, into the management of public money. Few concerned (says *Rapin*) but were found guilty of some misdemeanor.

C c 2

400,000 l.

400,000 *l.* were sent from *Spain* (says *Burnet*. I have omitted quoting vol. and page) to bribe the parliament to approve of queen *Mary's* marriage with *Philip*. The marriage-bill passes immediately. And four bills against heretics in one session. Such was the power of *Spanish* gold.<sup>a</sup>

*Philip* brings part of the promised money with him. The money brought from *Spain* produced such effects, that most of the representatives only wanted occasions to signalize their zeal for the queen.<sup>b</sup>

Of *James I's* time it is observed by Mr. *Hume*<sup>c</sup>, that 'So little skill, or so small means, had the court in his reign for managing parliaments, that this house of commons shewed rather a stronger spirit of liberty than the former.' What a lesson does this sentence teach! In our times it is computed that the court has in its disposal several millions a year. If so, our court has great means for managing parliaments, and therefore our house of commons is not likely to shew much of the spirit of liberty.

The militia bill passed the lords, *A. D.* 1661, by which it is declared, that neither lords nor commons conjunctly nor severally, nor the people severally or representatively, have any power over the person of the king, and that the king alone has the power of all forces by sea and land, and all ships, fortifications, &c. exclusive of parliament. And that no war can, on any pretence whatever, be raised against the king.<sup>d</sup> At the same time, an oath is to be taken

<sup>a</sup> *PARL. HIST.* III. 302, 308.

<sup>b</sup> *Rap.* II. 39, 40.

<sup>c</sup> *Hume's HIST. STUARTS*, I. 47.

<sup>d</sup> See above, p. 269, *at seq.* <sup>e</sup> *DEB. LORDS*, I. 42.

taken by all lord lieutenants, deputy lieutenants, officers and soldiers; that it is on no pretence lawful to take arms against the king, or those commissioned by him, 'which seemed (say the collectors of the debates) 'to be giving up the constitution,' especially when it was declared unlawful to take arms against any person commissioned by the king. This was debated, but it was left in the oath, because, said those slavish peers and commoners, any person *unlawfully* commissioned, is not commissioned. Thus they left the liberties of *England* on the precarious foundation of a logical distinction.

The people in the time of *Charles I*'s tyranny, petitioned for a parliament. We have seen the people, in the time of *George III*, petition for the dissolution of parliament. In *Charles's* time, the people's entire confidence was reposed in the parliament. The influence of the court in our house of commons has in great measure destroyed our dependence upon it. In those times one independent parliament succeeded to another. The same spirit reigned, though the individuals were changed. In succeeding times, one set of slaves has followed another, and the same corrupt spirit run through parliament after parliament<sup>a</sup>.

*Charles II.* is thought to be the first king, who bought the votes of members of parliament.

What a picture does the great and good *Sidney* draw of the corruption prevailing in *England* in the beginning of the reign of that prince, in his letter in answer to his friends advising him to return from his voluntary banishment on the passing of the act of indemnity<sup>b</sup>.

C c 3

'I con-

<sup>a</sup> See the DEBATES.

<sup>b</sup> *Somers's TRACTS*, VII. 81.

' I confess (says he) we are naturally inclined to  
 ' delight in our own country, and I have a particular  
 ' love to mine: I hope I have given some testimony  
 ' of it; I think that being exiled from it is a great  
 ' evil, and would redeem myself from it with the loss  
 ' of a great deal of my blood. But when that country  
 ' of mine, which used to be esteemed a paradise, is  
 ' now like to be made a stage of injury; the liberty  
 ' which we hoped to establish, oppressed, all manner  
 ' of profaneness, looseness, luxury, and lewdness,  
 ' set up in its height; instead of the piety, virtue,  
 ' sobriety, and modesty, which we hoped God by our  
 ' hands would have introduced; the best of our nation  
 ' made a prey to the worst; the parliament, court,  
 ' and army, corrupted; the people enslaved; all  
 ' things vendible; and no man safe, but by such evil  
 ' and infamous means, as flattery and bribery; what  
 ' joy can I have in my own country in this condi-  
 ' tion? Is it a pleasure to see all that I love in the  
 ' world sold and destroyed? Shall I renounce all my  
 ' old principles, learn the vile court arts, and make  
 ' my peace by bribing some of the crew? Shall their  
 ' corruption and vice be my safety? Ah! no; better  
 ' is a life among strangers, than in my own country  
 ' upon such conditions. Whilst I live I will endea-  
 ' vour to preserve my liberty; or at least not consent  
 ' to the destroying of it. I hope I shall die in the  
 ' same principles in which I have lived; and will live  
 ' no longer than they can preserve me. I have in my  
 ' life been guilty of many follies, but as I think of no  
 ' means. I will not blot and defile that which is  
 ' past, by endeavouring to provide for the future. I  
 ' have ever had in my mind, that should God cast me  
 ' into such a condition, as that I cannot save my life,

' but by doing an indecent thing, he shews me the  
 ' time is come wherein I should resign it; and when  
 ' I cannot live in my own country, but by such  
 ' means as are worse than dying in it; I think he  
 ' shews me I ought to keep myself out of it. Let  
 ' them please themselves with making the king glo-  
 ' rious, who think a whole people may justly be sacri-  
 ' ficed for the interest and pleasure of one man, and a  
 ' few of his followers; let them rejoice in their sub-  
 ' tilty, who by betraying the former powers have  
 ' gained the favour of this; not only preserved, but  
 ' advanced themselves in these dangerous changes.  
 ' Nevertheless (perhaps) they may find the king's  
 ' glory is their shame; his plenty the people's misery;  
 ' and that the gaining of an office, or a little money,  
 ' is a poor reward for destroying a nation, which if it  
 ' were preserved in liberty, and virtue, would truly  
 ' be the most glorious in the world. And others per-  
 ' haps may find they have with much pains purchased  
 ' their own shame and misery, a dear price paid for  
 ' that which is not worth keeping, nor the life that is  
 ' accompanied with it. The honour of *English* par-  
 ' liaments has ever been in making the nation glorious  
 ' and happy, not in selling and destroying the interest  
 ' of it, to satisfy the lust of one man. Miserable  
 ' nation, that from so great a height of glory is fallen  
 ' into the most despicable condition in the world, of  
 ' having all its goods depending upon the breath and  
 ' will of the vilest persons in it! Cheated and sold by  
 ' them they trusted! Infamous traffic, equal almost  
 ' to that of *Judas*! In all preceeding ages parliaments  
 ' have been the pillars of our liberty, the sure defenders  
 ' of the oppressed: They, who formerly could bridle  
 ' kings, and keep the ballance equal between them

and the people are now become the instruments of our oppressions, and a sword in his hand to destroy us: They themselves being led by a few interested persons, who are willing to buy offices for themselves by the misery of the whole nation, and the blood of the most worthy and eminent persons in it, &c.

The collectors of the debates of the commons have given us a curious list of pensions, and pensioners, and their characters, in the pension parliament, from a scarce tract published at the time, entitled, *A reasonable Argument to persuade all the Grand Jurors in England, to petition for a new Parliament. Or, A List of the principal Labourers in the great Design of Rapery and arbitrary Power, &c.* A reward of 200*l.* was offered by proclamation for discovering the author. He gives an exact account of all the emoluments and advantages enjoyed by above 200 members. His manner is whimsical enough. I will copy a few of his articles for the reader's amusement.

*Reading.* Sir *Franis Doleman* has 200*l.* per ann. pension, and was assisted by the court in the cheating will, by which he got *Charles's* estate, valued at 1600*l.* Is now clerk of the council, worth 500*l.* per ann. and is promised to be secretary of state.

*Buckinghamsh.* Sir *Richard Temple*, commissioner of the customs, worth 1200*l.* per ann.

*Buckingh. town.* Sir *William Smith*, as honest as sir *Richard*.

*Cambridge town.* *William* lord *Allington*, in debt very much, a court-pensioner, and in hopes of a white staff. *Acully*.

*Gloucestershire.*

• *Cheshire.* *Timothy Chelmsley*, promised, a great place at court, and not only deceived, but laughed at.

• *Floor* gentleman, and being himself being T. . .

• *Cornwall.* *Stafford* *Trillemoy*, bart. one who

• is known to have sworn himself into 4000*l.* at least

• in his account of the prize-office. Controuler to the

• duke, and has got, in gratuities, to the value of

• 10,000*l.* besides what he is promised for being an

• informer.

• *Danvers.* *Sir Charles Harbord*, surveyor-general.

• Has got 100,000*l.* of the king and kingdom. Was

• formerly a solicitor of *Staples Inn*, till his lewdness

• and poverty brought him to court.

• *Devonsh.* *Sir Copelston Bampfild*, bart. much

• addicted to tipping, presented to the king by his

• pretended wife, *Betty Roberts*, in *Pall Mall*.

• *Holton.* *Sir Peter Prideaux*. Constant court-

• dinners, and 300*l.* per ann. pension.

• *Weymouth.* *Sir Winston Churchill*—now one of the

• clerks of the green cloth.—Proffered his own daugh-

• ter to the duke of *York*, and has got in boons,

• 10,000*l.* Has published in print, that the king

• may raise money without parliament.

• *Durham.* *John Tempest*, Esq. a papist, a pen-

• sioner, and a court-dinner man. Has got a custo-

• mer's [custom-house officer's] place at *Hull* for his

• son.

• *Harwich.* *Thomas King*, Esq. a pensioner for

• 40*l.* a session, meat, drink, and now and then a

• suit of clothes.

• *Malden.* *Sir Richard Wiseman*, 1000*l.* a year

• pension, and keeper of one of the treasurer's public

• parliamentary tables.

• *Winchester.*

‘*Winchester*. Sir Robert Holmes, first an *Irish* livery-boy; then a highwayman; now bashaw of the *Isle of Wight*. Got in boons, and by rapine, 100,000 *l*. The cursed beginner of the two Dutch wars.

‘*Stockbridge*. Sir Robert Howard, auditor of the receipts of the exchequer, 3000 *l*. per ann. Many great places and boons, he has had; but his wife—*Upbil* spends all, and now refuses to marry him.

‘*Newton*, in the *Isle of Wight*. Sir John Holmes, Sir Robert’s brother, a cowardly, baffled sea-captain, twice boxed, and once whipped with a dog-whip; chosen in the night without the head-officer of the town, and but one burghers; yet voted, this last session, well elected.

‘*Weobley*. Sir Thomas Williams, king’s chemist.—Has got 40,000 *l*. by making provocatives for lechery—&c.’

He concludes with an apology for undervaluations, or omissions; and mentions, that the house was lately told by some of their own members, ‘That there were among them several papists, fifty out-laws, and pensioners without number.’

Many of *Charles II*’s long parliament were ruined in their fortunes, and lived upon their privileges and pensions. They had got it among them for a maxim, which contributed not a little to our preservation, while we were in such hands, that, as they must not give the king too much at a time, lest there should be no more use for them, so they were to take care not to starve the court, lest they themselves should be starved by that means.’

Speaking

Speaking of the few honest men of those times, he goes on thus. 'These were the chief men' [*Cromwell, Birch, Waller, &c.*] 'that preserved the nation from a very deceitful and practising court, and a corrupt house of commons. And by their skill and firmness they, from a small number, who began the opposition, grew at last to be the majority.'

'At first this trade (of bribing the members) was secretly carried on, but after *Clifford's* advancement to the treasury, it was so openly practised, that men's names and prices were publickly known.' No wonder the king's money went. Bribery was not then reduced to a system; so that the king could not get a majority in the house of commons, and his schemes were so frightful, that he could not bribe high enough. He dissolved the pensioned parliament, and never got one to his purpose after.

The judicious author of a tract entituled, *DANGER OF MERCENARY PARLIAMENTS*, first printed, *A. D.* 1698, ascribes to the pension parliament under *Charles II.* 'the formidable greatness of *France*; the prodigious expences of the late feigned and col-lusive war; (the money given for it being employed either in subduing the subjects at home, or oppressing our protestant neighbours abroad) the flourishing state of the *French* navy (timber, mariners, cannon, and bullets being furnished them from the Tower, which occasioned *Charles II.*'s boast, that he had made his brother of *France* a seaman, all to please a *French* war—*Queenville*, afterwards duchess of *Portsmouth*) the attack upon the charters of cities; the

\* *Rapin*, II. 701.

\* *ST. TRACTS*, time of king *William*, 11. 638.

‘ the death of some of our best patriots; the encouragement of popery; the decay of trade; the growth of arbitrary power; the ill effects of dishonourable leagues; the shutting up of the exchequer; the progress of all sorts of debauchery; the servile compliances at court of a rampant hierarchy; the insolent deportment of the inferior clergy both in the universities and elsewhere; the slavish doctrine of passive obedience and non-resistance; with the almost total extirpation of virtue and moral honesty.’

A list of the pensioners in *Charles II*’s long parliament was extant, *A. D.* 1695. The sum of 252,467*l.* was given in bribes in less than 3 years; and others were hired with ‘ dinners by *Copleston*, *Wiseman*, and others, who kept open house for the purpose, when each worthy member found under his plate such a parcel of guineas as it was thought his day’s work had merited.’

‘ The house of commons was then divided into two parties, that of the court, and that of the country. Of the court-party some were engaged by offices, nay a few by bribes secretly given them; a scandalous practice, first begun by *Clifford*.’

It was found, that in *Charles II*’s next parliament after the long one, nine members had received, in bribes, 3,400, and that the sum of 12,000*l.* had been given or lent to others. Eighteen pensioners in last parliament, were discovered, *A. D.* 1679; 2 at 1000*l.* a year; 6 at 500*l.* 2 at 400*l.* 4 at 300*l.* 4 at 200*l.* besides 9 others, who had received different sums.

\* Pref. to COLLECT. DEB. PARL. 1694-5. ST. TRACTS, time of king *William*, II. 475.

† *Hume*’s HIST. STUARTS, II. 254.      \* Ibid. 302.

sums of the villainous king. These were not only to vote with the court themselves, but to use all their interest. This was mere petty larceny compared with the wholesale dealings of modern times.

It was resolved, *A. D.* 1675, on a report of many members of the house of commons being pensioned, to oblige all members to take an oath disclaiming all receipts of money from the court since *Jan.* 1st, 1672<sup>b</sup>. But *Rapin* does not know whether the resolution was put in execution. The member was to declare that he had no gift, place, pension, promise, &c. nor knew of any other member's having any, but what he then gave in signed with his name.

Great opposition is always made to every bill for obliging members of parliament to give a test of their integrity from corruption. Yet we think there is no dispensing with tests of our being true churchmen. Is it then of greater consequence, that we be true to the comfortable doctrine of eternal reprobation, than that we be true to our country?

*Charles* II's first parliament seemed willing to grant him whatever he pleased to ask. He himself owns in his speech, *A. D.* 1667, that 'never king was so much beholden to parliaments, as he had been.' And the sequel shewed how judiciously they had bestowed their kindness. They were unwilling to confine him (good soul!) to the necessity of calling a parliament any oftener than he pleased. Accordingly their slavish speaker, *Turner*, says in his speech, *A. D.* 1677, 'We found the triennial bill derogatory to the essential privilege of the crown, of calling, holding, and dissolving parliaments. We found it impracticable, and

<sup>a</sup> *Rapin*, II. 707.

<sup>b</sup> II. 678.

and only useful to reach the people to rebel, &c.<sup>a</sup> The commons granted that worthless tyrant so unmeasurably, that even the lords were alarmed. They supported him in his villainous war against *Holland*, our natural ally, in conjunction with *France*, our natural enemy. The church, the ever faithful coadjutor of wicked kings and ministers, excited them to persecute all who differed from them, and the cruel corporation and five mile acts were made under a king who had as much religion as his horse. The oath of passive obedience and non-resistance was thrown out by three votes only. The long parliament has been, and will be to all ages, infamous for the notorious pensions given by the court among its members. However even the pension-parliament passed many good acts. They were not yet hardened in sin, as parliaments have been since.

About 800,000 *l.* were passed over by parliament unaccounted for, *A. D.* 1669. Every member's price was known, says *Burnet*<sup>b</sup>. In those times the commons gave whatever the court asked; and the money-bills were opposed by the lords<sup>c</sup>.

By the peace of *Breda*, *A. D.* 1667, no advantage was gained by *England*, says *Rapin*<sup>c</sup>, though the war cost 5½ millions, besides the ships lost in battles and at *Chatham*. Yet the king had promised never to make peace till the objects of the war were gained. However the king got large sums of money into his hands, particularly the 1,800,000 *l.* and the duke of *York* got great advantages as high admiral, and 120,000 *l.* a present

<sup>a</sup> HIST. OWN TIMES, I. 377.

<sup>b</sup> Ibid.

<sup>c</sup> *Rapin*, II. 645.

a present from parliament. The villainous parliament suffered all to pass unquestioned.

James II. said, the members of his only parliament, all but about 40, were men after his own heart. The elections were made at random, any how, men of any sort chosen, and in the most barefaced manner. Many in those days were terrified by James's severities, into silence and compliance. The papists, who were many, liked him, and his measures, because he was for advancing them. The clergy are always for the reigning prince, unless he directly attacks their spirituals, or their temporals. And there was money given to carry elections.

Seymour spoke bravely in James II.'s only parliament, against corruption in elections. Many doubt, said he, whether this is a representative of the nation. Little equity is to be expected by petitioners against undue elections, when so many in the house are themselves too guilty to judge justly and impartially. If the nation sees that no justice is to be expected from you, other methods may be found, by which you may come to suffer that justice, which you will not do. The court did not dare to censure him for his freedom.

Though Richard II. and many others of our worst kings, down to Charles II. dabbled in corruption, it may yet be said, that the art of governing by regularly and systematically bribing the house of commons came in at the revolution. It was first applied for buying off the jacobites, and has been going on ever since, till the sitting down of the present immaculate parliament, (the present parliament is always immaculate) and

and has of late times been applied to the buying off of a set of troublesome men, who would otherwise have opposed the pious designs of the court. That this is the truth, is demonstrable from the court's continuing the practice almost a century; which it certainly would not do, at such an enormous expence, if it did not find its account in the proceeding.

Votes were for the first time after the revolution, bought by Sir *John Trevor*, speaker of the house of commons, 'a bold and dexterous man, says *Burnet*<sup>a</sup>, 'who knew the most effectual ways of recommending himself to every government, and had been in great favour in king *James's* time. Being a tory in principle, he undertook to manage that party, provided he was furnished with such sums of money as might purchase some votes.'

This mischievous invention has cruelly reduced the value of the revolution to the nation. Some of the worst evils of *Stuart*-government were the following, viz. 1. Governing without parliaments. But is there any difference between governing without parliament, and governing parliament itself by money? 2. Raising ship-money and other taxes without consent of the representatives of the *people*. What avails the consent of a set of bribed representatives indemnified of the general burden by places and pensions? 3. Corrupting judges. Corrupting the house of commons is worse. It is poisoning the fountain-head. 4. Punishing arbitrarily, and according to no written law. But may not parliaments thoroughly enslaved to a court, be expected to make cruel *laws*, whenever the court happens to be of a cruel disposition. And what

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<sup>a</sup> HIST. OWN TIMES, III. 57.

what difference it is to the subject whether he is cruelly punished by *Justice's* staff of the laws, or by the direct injustice of the law *itself*; except, that the latter is putting him into a more *unavoidably* bad situation than the former; so Intimidating the members by fines, prisons, &c. The evil of this practice consists only in its inducing the members to vote against their country. What difference does it make to the subjects, whether parliament is intimidated, or their property by fear or by hope? When the *Stewards* intimidate the members, that measure *is* *not* *against* the nation. But men are obliged to *pay* for *nothing* themselves, to pay for the very *bad*, which is to *beat* ourselves. *Justice* *and* *justice*. We had better pay *aside* juries, than lay *aside* the whole efficiency of parliament. To bribe parliament is to lay *aside* its whole efficiency, and make it a mere limb of the *chief*. Besides, a corrupt parliament may be expected to enact what our country lawyers, some of them of no mean rank, are often preaching up, viz. That juries are only to judge of the *fact*, the establishing of which doctrine by parliament would produce precisely the same effect as abolishing juries by a statute. *Justice* *is* *against* parliament. A corrupt parliament is government *against* the people. 2. Seizing the members. A corrupt parliament will seize and imprison all the *corrupt* members, if they find it will answer their gracious ends. And a member had better be *imprisoned* by a *russian* tyrant, than persuaded by a *flattering* minister, to *ruin* himself and ruin his country. 3. Dispensing with the laws, and making laws without consent of either lords or commons; that is, giving out proclamations with the force of laws. But laws made, or laws repealed, by a set of profligate

court-tools in St. Stephen's chapel, are as far from the sense of the independent *people*, as the *Stuart's* proclamations, or dispensations. In fact, a corrupt court against an *honest parliament* and a brave people is nothing near so formidable as a *corrupt court* and *parliament* against a helpless people. The former case admits of a *constitutional* remedy; the latter leads to violence and contest between government and people.

10. But the *Stuarts* shut the exchequer. True. And our bribing ministers have, by doling about the money which should have paid the national debt, brought public credit to the very precipice of bankruptcy.

11. The *Stuarts* intended to establish absolute power in the prince. They did so. And our bribing courts intend to establish absolute power in a junto of grantees, who rule elections, and direct the members when to say Aye, and when No.

12. The *Stuarts* intended to re-establish popery; while our corruptors mean only atheism. Here I own a difference; popery being the worst thing in the universe, hell only excepted. So that upon the whole, I know of scarce any evil we have escaped by the revolution, popery excepted, that is not in a fair way of being brought back upon us by corruption. The *Stuarts* were butchers. They attacked the good lady *Britannia* with slaughtering knives. Our genteeler corruptors have endeavoured her destruction by poison held out to her in a golden cup; or, as a humorous writer (I have forgot who) states it, between two thieves, whig and tory, the nation is crucified.

Suppose, in two suits of law, my first antagonist obliges the judge, by threatening his life, to give sentence against me, and my second bribes him. Am I not equally injured in both cases? The

*Stuarts*

*Stuarts* meant a tyranny by one; the *Walpolians* an aristocracy. Which is worst for *England*?

The corruption introduced in king *William's* time, on pretence of buying off the *Jacobites* (doing a certain evil, that an uncertain good might come, overthrowing the *virtue* of the people—to *save* the nation) was so openly scandalous, that honest *Burnet* remonstrated to the king upon it, with almost as much severity as the old prophet used in reproving king *David* for murder and adultery. And good reason he had for using severity. A *Dutchman* comes over to *Britain* on pretence of delivering us from slavery; and makes it one of his first works to plunge us into the very vice which has enslaved all the nations of the world, that have ever lost their liberties. When the parliament passed a bill for incapacitating certain persons, who might be supposed obvious to court influence, from sitting in parliament, our glorious deliverer refused the royal assent, which occasioned some severe resolutions against the advisers of that refusal, and a motion for a remonstrance to the king upon it. When an enquiry was afterwards set on foot, into the venality of parliament, such a scene of iniquity was opened, as made the pension-parliament of *Charles II.* seem innocent, and the court was then thought to have arrived at the *ne plus ultra* of corruption. If king *William* had been as disinterested as he ought, and as he pretended, he would not have clo-setted members, nor promoted bribery. No man will dare damnation for the sake of doing good to *others*, unless he thinks to get, or keep, some advantage to himself.

D d 2

himself.

himself. May my soul stand upon a more secure foundation at the day of reckoning, than those of the best kings.

Let the reader judge of this matter by the following extract from a writer of those times<sup>a</sup>.

‘200,000 l. a year bestowed upon the parliament  
 ‘has already drawn out of the subjects pockets more  
 ‘millions than all our kings since the conquest have  
 ‘had from the nation.’—‘The king has about six  
 ‘score members, whom I can reckon, who are in  
 ‘places, and are thereby so entirely at his devotion,  
 ‘that though they have mortal feuds, when out of  
 ‘the house, though they are violently of opposite parties  
 ‘in their notions of government, yet they vote  
 ‘as lumpingly as the lawn sleeves, and never divide  
 ‘when the interest of the family, as they call it, is  
 ‘concerned, that is to say, when any court-project  
 ‘is on foot. The house is so officered, that by those  
 ‘who have places and pensions, together with their  
 ‘sons, brothers, and kinsmen, and those, who are  
 ‘fed with the hopes of preferment, and the too great  
 ‘influence, these have upon some honest mistaken  
 ‘country-gentlemen, (I call them mistaken, who  
 ‘can be persuaded that an honest bill can at any time  
 ‘be out of season) the king can baffle any bill, quash  
 ‘all grievances, stifle accounts, and ratify the articles  
 ‘of *Limerick*.’—‘I would trust an elected king a  
 ‘great way, if I saw he understood election to be his  
 ‘title; if our generosity would engage him to reformation.  
 ‘But when I see, he knows neither his own  
 ‘nor

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<sup>a</sup> *A short state of our condition with relation to the present parliament, printed, A. D. 1693. ST. TRACTS, time of King William, II. 369.*

' nor our interest, that he hates and nicknames as  
 ' commonwealths-men, these whose principles made  
 ' them the authors of his greatness, and those that  
 ' would have him do the business, for which he came,  
 ' for which both he and we said he came; when I see  
 ' him sometimes soliciting in person in the house of  
 ' lords, and sometimes by lord *Portland*, besides what  
 ' he does by his under-officers; when I hear, he sends  
 ' commands to some lords, and bribes to others, and  
 ' turns out of his place the gallant lord *Bellamont*,  
 ' merely for giving his vote in the house of commons  
 ' according to his conscience, thereby intending to  
 ' terrify others; when I find the money, which the  
 ' nation gives to defend our liberties from foreigners,  
 ' is like to undermine them at home; in a word,  
 ' when I see neither one house nor the other can with-  
 ' stand the power of gold; I say, when I perceive all  
 ' this, I think it is time to look about us.\*—I  
 ' thought we had called him over to call ministers to  
 ' an account, and to put it out of their power to abuse  
 ' us hereafter unpunished. If any spirit of liberty  
 ' remains, if we are not destined to destruction, sure  
 ' the nation will take some way to let the king and  
 ' both houses know, that they expect, they should  
 ' not only provide for a campaign in *Flanders*, but for  
 ' our security even against our own victories, and  
 ' such laws as may make it worth while to defend our  
 ' country; I say, worth while to defend it; for if we  
 ' are to be slaves, it is no matter to whom we are so.  
 ' —Since members are retained by him with such  
 ' overgrown fees (such places and preferments) to be  
 ' council on his side; how can the people hope they  
 ' will

D d 3

\* ST. TRACTS, time of king *William*, II. 369, 370.

‘ will be just in their arbitration?—If men are to  
 ‘ make fortunes by being of our senate-house, we had  
 ‘ better ourselves pay the disbursements of those we  
 ‘ send—each particular county would find their ac-  
 ‘ count in it, whilst they would preserve their mem-  
 ‘ bers from the temptation of being hired out of their  
 ‘ interest, and consequently would get good laws for  
 ‘ what they give.—If this [bribing of members] con-  
 ‘ tinues, God have mercy upon poor *England*, for  
 ‘ hitherto we have been, and are like still, for ought  
 ‘ I see, to be paid, for all our expence of blood and  
 ‘ treasure, with the smoke, which *Boccalini* mentions  
 ‘ in his advices from *Parnassus*, whereby the enemies  
 ‘ of the government have but too great advantage given  
 ‘ them to ridicule us for our foolish credulity.’

Thus far this blunt honest writer. And it must be owned, that the constitution has long been only nominally government by king, lords, and commons, but really a tyranny of ambitious and avaritious *ministers*, who have, in succession, enslaved and blinded their royal masters, wasted the public money, plunged the nation into inextricable debts and difficulties, multiplied places and pensions, kept up large and expensive armies in time of peace, accumulated excises, misapplied taxes, irritated our colonies, injured commerce, endangered public credit, debauched the virtue of the people, established corruption, as a necessary engine of government, over-ruled elections, defeated the very end of choosing representatives, by debauching the house of commons, the people’s only *Palladium* against regal and ministerial tyranny, into a mere outwork of the court, by which means the sense of the nation has been, in innumerable instances, trampled

upon by the pretended representatives of the people, whose duty is, to follow it implicitly.

These are the triumphs of the whigs, our pretended deliverers from the *Stuarts* of tyrannical memory, and from popery, and slavery.

Nothing was done at the revolution (says the author of *DISSERT. ON PARTIES* \*) to prevent *parliamentary* corruption. 'Pleased that the open attacks on our constitution were defeated and prevented, men entertained no thought of the secret attacks that might be carried on against the independency of parliaments, as if our dangers could be but of one kind, and could arise but from one family. Soon after the revolution, indeed, men of all sides and of all denominations (for it was not a *party*-cause, though there were who endeavored to make it such) began to perceive, not only that nothing effectual had been done to hinder the undue influence of the crown in elections, and an over ballance of the creatures of the court in parliament, but that the means of exercising such an influence at the will of the crown, were unawares and insensibly increased and every day increasing. In a word, they began to see that the foundations were laid of giving as great power to the crown indirectly, as the prerogative, they had formerly dreaded so much, could give directly, and of establishing universal corruption. The first hath happened, and we pray that the last never may.'

King *William's* convention-parliament shewed an unpardonable negligence in taking no security against kingly encroachments, nor against parliamentary corruption, nor for certain and annual redress of grievances,

D d 4

vances, nor for annual parliaments. They complimented him immediately (before they had any security that he would not abuse so enormous a trust, and with the greatest probability that the example would have bad effects) with the suspension of the *Habeas Corpus* act, thereby laying at the feet of one individual the liberty of millions; which was never done in the much more dangerous times of queen *Elizabeth*, nor in *Monmouth's* rebellion by the tyrant *James II.* They declared the *Irish* rebels, for adhering to king *James*, when they were liable to be hanged, if they had resisted him, and before the revolution was known in *Ireland*. They humoured the *Dutch* demands, in complaisance to their new *Dutch* king, to the prejudice of *England*. They entered blindfold, and rushed on to a length beyond all reason and prudence, into *William's* views of humbling *France* by land-war, and first entangled us in those continental connexions, which have almost ruined us. Then parliament settled the king's revenue for life. Was that acting like wise men, who ought at least to have read their Bible, which would have told them, that there is no trust to be put in kings, &c.

Then came the blessed contrivance of borrowing, and spending the principal, to the amount of 4 and 5 millions in one year, in continental wars, and loading the trade of the nation to pay the interest. Which admirable art we have since improved to such an height, as to raise the national debt to the frightful sum of 140 millions, by which our trade has been loaded with a burden of 5,600,000 *l. per ann.*

According to *Davenant*, there were granted to king *William* by parliament, chiefly for his continental

wars, in the years 1689, 90, and so on to 1698, no less than 48,000,000 l.

Parliament overlooked in king *William* what they severely reſented in his predecessor, the diſpenſing with the laws. King *William*, of his own authority, granted the *Irish* rebels conditions, which the laws reſuſed them.

There was undoubtedly at the reſtoration, as well as at the revolution, a ſtrong diſpoſition both in parliament and people to humour the court. The nation was at theſe two periods juſt eſcaped from a tempeſtuous ſea of inſtine commotions, and getting into a calm harbour, was ſo overjoyed as to become almoſt wholly thoughtleſs of its danger in truſting kings and courts in ſo unlimited a manner. But a great part of theſe parliamentary concessions were the undoubted effect of direct groſs bribery. It was thought, that the beſt part of 170,000 l. was given among the members of the houſe of commons by the *East India* company, *A. D.* 1695, to obtain a renewal of their excluſive charter, inſtead of opening the trade, which was much talked of at that time\*. Twelve lords and twenty-four commoners were a committee appointed to ſearch into thoſe ſcenes of corruption.

\* Whenever (ſays *LEGION* b) a houſe of commons ſhall part with, expoſe, neglect, or ſuffer to be infringed, the liberties, rights, and peace of the people they repreſent [and ſurely this they do, when they ſhew themſelves the abſolute ſlaves of the court by ſeconding the views of the miniſtry, right or wrong]

\* *Burn. HIST. OWN TIMES*, III. 199.

b *Somers's TRACTS*, III. 124.

wrong] 'they betray their trust, they violate the general reason of their being chosen; their representing power and being ceases of course, and they become, from that time forward, an unlawful assembly, and may and ought to be deposed and dismissed by the same laws of nature and right, by which oppressed subjects may, and in all ages have deposed tyrannical princes.—It cannot be just, that what our kings have no right to take away, our representatives may give without law, or that the people should be obliged to endure the tyranny of 500 usurpers, more than of one, since no number nor quality of persons can make that lawful which in its own nature is not so.' They afterwards complain, that the town of *Maidstone* was deprived for two sessions of its privilege of sending two members. That at the elections for *Westbury* and *Sudbury*, the commons had given the seat to the candidate, who had 16 votes against 22. They complain of freeholders deprived of their right to choose members; of partiality with respect to defaulters, punishing some and letting others escape; of resuming king *William's* grants, while they allowed those of former kings, though much more infamous; of attempts to extend the prerogative only for the sake of embroiling the royal family with the peers. The commons were at that time disaffected, and the peers seem to have been of a better way of thinking; which is very extraordinary.

Sad scenes of corruption were found, *A. D.* 1694. Several contractors for cloathing the army were examined. Refusing to satisfy the commons, they were committed to the Tower. A bill was ordered in for

punishing those, who should refuse to answer questions asked by the house <sup>a</sup>.

Mr. *Cornish* was expelled the house of commons, *A. D.* 1698, for acting as a commissioner of duties upon vellum, paper, parchment, &c. while a member, contrary to 5 and 6 *William III.* <sup>b</sup>

From discoveries made, *A. D.* 1695, it was suspected, that an universal corruption had overspread the nation, court, camp, city, and parliament. There was a deficiency of 294,798 *l.* in the *East India* company's stock, and some of the members were suspected of dabbling <sup>c</sup>. To wipe off suspicion, a committee of the commons was appointed to inspect the company's books, and those of the chamberlain of *London*. It appears that several members were bribed, that the company might obtain a new charter. There were likewise corrupt practices among them for procuring the orphan's bill <sup>d</sup>. A resolution of the commons charged their speaker, *Trevor*, with corruption for receiving 1000 guineas from the city of *London*, after passing the orphan's bill <sup>e</sup>. He sends the mace to the house, and quits his post. *Foley* is chosen speaker in his room. Resolutions followed against several members, and a bill for obliging *Sir Tho. Cooke* to give an account of monies, which had passed through his hands. The bill was rejected by the lords, and *Cooke* suffered to escape, on promise, that he would make discoveries. He brings in a long and black list of those who had fingered the money, persons of noble rank,

<sup>a</sup> *DEB. COM.* II. 448.

<sup>b</sup> *Bobun's RIGHT OF ELECT.* 265.

<sup>c</sup> *DEB. COM.* II. 451.

<sup>d</sup> *Ibid.* 454.

<sup>e</sup> *Ibid.* 456.

rank, and higher than noble; which, it was pretended, was only in consequence of antient custom at the renewing of charters. Sir *Josiah Child* deposed, that the *East India* company had proposed to offer the king 50,000 *l.* but that Mr. *Tyssen* had told them, from lord *Portland*, the king would have nothing to do with it.<sup>a</sup> A member (anonymous) said, The house ought to provide laws, for the future, to prevent the members taking money. There were severe reflections on the duke of *Deeds*.<sup>b</sup> It was proposed to address the king to remove him, or that the house should impeach him. 'Such actions as these' (a member said) 'are a blemish, if not a scandal to the revolution itself.' Another member asked, 'By what law it was a crime to take money at court?' It was answered, 'If there was no such law, it was time there should be one.' And it might have been added, That it is an article of the oath taken by all privy councillors, that they will avoid corruption.<sup>c</sup> 'Justice is not to be sold,' said another member, 'by common law.' [We should think that very uncommon law in our times, by which a man obtained justice *gratis*, and our ministers publicly declare, they think it necessary, that the court have influence in parliament. Is not that selling justice?] Another member said, 'There are parliaments to punish such crimes, and it is to be hoped, there will always be.' [Little did that honest gentleman think the time would come, when upwards of 200 notorious placemen and pensioners would sit in St. *Stephen's* chapel without a blush on their faces.] 'Resolved,

<sup>a</sup> *Deb. Com.* II. 465.<sup>b</sup> *Ibid.* 466.<sup>c</sup> *Ibid.* 467.<sup>d</sup> *Blackst. Comm.* I. 230.

‘ solved, That *Thomas duke of Leeds*, president of ‘ his majesty’s most honourable privy council’ [a most honourable president!] ‘ be impeached of high crimes ‘ and misdemeanours.’ The duke of *Leeds* went to the house of commons; made a very weak speech, denied his receiving any money; but it appeared afterwards, that this was a mere equivocation. The impeachment, however, was sent up to the lords. They acquaint the commons, That they had passed a bill for imprisoning *Sir Thos. Choke* and others. The commons resolved, ‘ That to offer money, or other ‘ advantage, to a member, for promoting any matter ‘ whatsoever depending in parliament, is a high crime ‘ and misdemeanour, tending to the subversion of the ‘ *English* constitution.’ [There ought, therefore, since that time, to reconcile principles with practice, to have been a resolution of the commons, That for a minister to offer, and actually to give money, and places to 200 members, for promoting his schemes; and to keep him in his place, is a *high* crime and misdemeanour, *not tending* to the subversion of the *English* constitution.] The commons were going on to impeach others; but were interrupted by *Black Rod*’s calling them to attend the king, who was come to put an end to the sessions. [Which shews a king to be a very convenient implement for the minister’s purposes.] There were several other very reasonable bills before the house, which could not be carried through. And the king’s concluding the sessions, while they were searching into the above horrible scene of corruption, looks very indifferent on the

part

\* *Blackst. Comm.* i. 467. \* *Ibid.* 470.

\* *Ibid.* 471.

part of our glorious deliverer. He pretended, the season of the year required his going abroad. That parliament never met again; being dissolved soon after <sup>a</sup>.

Reflexions being made against the ministry by the tories, *A. D.* 1690, a commission was appointed to enquire into the laying out of the public money. A certain number of the commons (the lords declining) were chosen by ballot, with authority to send for persons, papers, and records, and to examine upon oath <sup>b</sup>. This might be of service in those times. But in an age, when the majority of the commons are corrupt, the majority of every committee must be the same, if the doctrine of chances may be depended upon.

At the same time that *France* was bribing *Charles II.*'s parliament, money for the same purpose came over from *Spain* and the Emperor to gain the members to their party <sup>c</sup>.

Prodigious quantities of *French* gold were brought over *A. D.* 1701, supposed for bribing parliament. A strong party for *France* in parliament <sup>d</sup>.

It was resolved, *A. D.* 1707, that it appears to the house that of 29,395 *Englishmen*, who should have been at the battle of *Almanza*, there were but 8,660. The queen was addressed to know why <sup>e</sup>. She answers, that there could no more be sent. But I think it does not appear very clear why they were not. Therefore

<sup>a</sup> *Blackst. COMM.* I. 471.

<sup>b</sup> *Burn. HIST. OWN TIMES*, III. 901.

<sup>c</sup> *Dalrymp. MEM.* II. 110.

<sup>d</sup> *Tind. CONTIN.* L. 439.

<sup>e</sup> *DEB. COM.* IV. 81.

it was moved to censure the neglect of not sending troops in time. But the censure was by the court-party over-ruled, and turned into an address of thanks for the queen's care of the affairs of *Spain*.

A formidable effect of ministerial power in parliament was seen in the fatal peace of *Utrecht*, of which queen *Anne*'s ministers, in the following speech, *A. D.* 1713, celebrate the praises, and herald forth their triumphs over their country.—‘I hope at the next meeting the affair of commerce will be so well understood that the advantageous conditions I have obtained from *France*, will be made effectual for the benefit of our trade. I cannot part with so good and so loyal an house of commons, without expressing how sensible I am of the affection, zeal and duty, with which you have behaved yourselves; and I think myself therefore obliged to take notice of those remarkable services you have performed. At your first meeting you found a method, without farther charge to my people, to ease them of the heavy load of more than nine millions, and the way of doing it may bring great advantage to the nation. In this session you have enabled me to be just in paying the debts due to my servants. And as you furnished supplies for carrying on the war, so you have strengthened my hands in obtaining a peace. Thus you have shewed yourselves the true representatives of my loyal commons, by the just regard you have paid to the good of your country and my honour: these proceedings will, I doubt not, preserve the memory of this parliament to posterity. My lords and gentlemen, At my coming to the crown, I found a war prepared for me. God has blessed my arms with many victories, and at last has enabled me to make them

• them useful by a safe and honourable peace: I  
 • heartily thank you for the assistance you have given  
 • me therein, and I promise myself, that, with your  
 • concurrence, it will be lasting. To this end, I  
 • recommend it to you all to make my subjects truly  
 • sensible what they gain by the peace, and that you  
 • will endeavour to dissipate those groundless jealousies  
 • which have been so industriously fomented amongst us,  
 • that our unhappy divisions may not weaken, and, in  
 • some sort, endanger the advantages I have obtained  
 • for my kingdoms. There are some (very few, I  
 • hope) who will never be satisfied with any govern-  
 • ment; it is necessary, therefore, that you shew your  
 • love to your country, by exerting yourselves to  
 • obviate the malice of the ill-minded, and to un-  
 • deceive the deluded. Nothing can establish peace at  
 • home, nothing can recover the disorders that have  
 • happened during so long a war, but a steady adhering  
 • to the constitution in church and state. Such as are  
 • true to these principles, are only to be relied on;  
 • and, as they have the best title to my favour, so you  
 • may depend upon my having no interest nor aim, but  
 • your advantage, and the securing of our religion and  
 • liberty. I hope, for the quiet of these nations, and  
 • the universal good, that I shall next winter meet my  
 • parliament resolved to act upon the same principles,  
 • with the same prudence, and with such vigour, as  
 • may enable me to support the liberties of *Europe*  
 • abroad, and reduce the spirit of faction at home.

It was proposed, to take the speech into con-  
 sideration. Immediately the cry was given for an  
 address of thanks, and no examination. They ac-  
 cordingly acknowledge her great *condescension* in let-  
 ting them know their *own* affair, which they had an  
 absolute

absolute *right* to know, and to determine as *they* pleased, as being the representatives of the great body, the people, the principal object. They 'want words to express the satisfaction with which they have received all that her majesty was pleased to impart.' 'Entire confidence in her.' She answers, that they shall 'find the good effects of their confidence'—In the blessed peace of *Utrecht*.

The bill for the *French* trade was proposed, *A. D.* 1713, to be engrossed. The debates held from 3 till near 11. Sir *Thomas Hanmer* said, 'he never would be led by any minister'. Even some of the placemen were against the bill. It was carried against its being engrossed, 174 against 185. A frightful number of enemies to *Britain* and friends to *France*, sitting in the assembly of *British* legislators.

By the treaty of *Utrecht*, *Dunkirk* was not to be demolished till an equivalent for it was put into the hands of the *French*. What that was to be, the court never explained. *Cape Breton* was left to *France*, with liberty of drying their fish on *Newfoundland*. All *French* goods were to come into *England* upon the same conditions as those of other countries, though they will hardly take any of ours in exchange, and though our *Portuguese* trade (one of the most advantageous we then had) and our silk, our linnen, and paper-manufactures must have been ruined by admitting the *French*, and though it was found in former times, that our trade with *France* was a million a year loss to us. All trading people were alarmed. Yet a bill for making the treaty of commerce with *France* effectual was within 9 votes of being established by mini-

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<sup>a</sup> *Deb. Com.* iv. 315.

<sup>b</sup> *Ibid.* v. 40.

sterial influence. This whole affair was carried on in the most barefaced manner; nothing attempted to shew the advantage of a commerce with *France*, though so much to demonstrate, that it would prove ruinous to the nation<sup>a</sup>. Yet we have people among us, who cry, There is no fear that a parliament will pursue an interest contrary to that of the nation.

In the commons' address of thanks to the queen for that hopeful treaty, are the following. 'Your majesty's extensive care hath not only provided for the security, but for the honour of your kingdoms. The good foundation your majesty has laid for the interest of your people in trade, by what you have done in the treaty of navigation and commerce with *France*, gives us hopes of seeing it yet farther improved to the advantage of your kingdoms.' They go on requesting that the treaty of commerce may be completed, &c.<sup>b</sup> The queen thanks them for the address, which so fully expresses their approbation of the treaties of peace and commerce with *France*. It was with no small difficulty that so great advantages in trade, were obtained for my subjects.' This cure has cost me an infinite deal of trouble, says the mock-doctor. Was this parliament a representation of the people of *England*, which approved what the whole people shewed themselves so much against?

Both houses address the queen upon the safe, honourable, and advantageous peace of *Utrecht*; by which *England* got just nothing but 50 millions debt. They thank her for 'delivering the nation from a consuming land war unequally carried on, and become at last

<sup>a</sup> *Burn.* iv. 389-403.

<sup>b</sup> *Deb. Com.* v. 43.

<sup>c</sup> *Ibid.* v. 127.

'impracticable.' She answers, that she looks upon this address as the united voice of her affectionate and loyal subjects. It was the voice of jacobites only, and of a parliament enslaved to a jacobite ministry, and the ministry knew it was so. *Burnet* says, the lords never approved it. See his speech prepared to have been delivered in the house of peers, in case the ministry had moved for an act, or an address, approving the peace, after it was published<sup>a</sup>. The good bishop, like a faithful preacher of righteousness, inveighs heavily against the perfidy of the court in patching up a peace without the consent and approbation of the allies, contrary to the express words of the treaties of alliance, upon which the war was, at the joint expence of the allies, entered into. 'Swearing deceitfully, says he<sup>b</sup>, is one of the worst characters; and he, who swears to his own hurt, and changes not, is amongst the best. It is a maxim of the wisest of kings, that the throne is established by righteousness. Treaties are of the nature of oaths, and when an oath is asked to confirm a treaty, it is never denied.' He goes on to shew, that the popes were the first inventors of a dispensing power, by which they taught princes to break through oaths and treaties, and mentions several shocking instances, very unfit for the imitation of a protestant court. He says, if any of the allies were deficient, there ought to have been demands and provocations, according to the usual forms in such cases; and that these being wanting, he cannot see, that the public faith was not broken first on our side.

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<sup>a</sup> HIST. OWN TIMES, IV. 397.<sup>b</sup> Ibid. 399.

Let us hear the sense of *Geo. I.*'s ministry on that fatal transaction, in his first speech, *A. D. 1715*, and the answer of the commons.

‘ It were to be wished (says the king) that the unparalleled successes of a war, which was so wisely and cheerfully supported by this nation, in order to procure a good peace, had been attended with a suitable conclusion. But it is with concern I must tell you, that some conditions, even of this peace, essential to the security and trade of *Great Britain*, are not yet duly executed, and the performance of the whole may be looked upon as precarious, &c. A great part of our trade is rendered impracticable, the public debts are very great, and surprizingly increased even since the fatal cessation of arms, &c.

And the commons in their address, express themselves as follows ;

‘ We are sensibly touched, not only with the disappointment, but with the reproach brought upon the nation by the unsuitable conclusion of a war, which was carried on at so vast an expence, and attended with such unparalleled successes. But as that dishonour cannot, with justice, be imputed to the whole nation, so we firmly hope and believe, that through your majesty's great wisdom, and the faithful endeavours of your commons, the reputation of these your kingdoms will in due time be vindicated and restored. We are under astonishment to find —that care was not taken [in framing the treaty] to form such alliances, as might have rendered that peace not precarious—Your commons are under the  
 ‘ deepest

‘deepest concern, that a great part of our trade is rendered impracticable,’ &c. So soon were all the lies bandied between the tory ministry, and the enslaved parliament, overthrown!

All, all but truth, drops dead-born from the press;  
Like the last gazette, or the last address. *Pope.*

A number of new writs were made out for filling vacancies made by members accepting places\*, *A. D.* 1711. The collectors of the debates have given us an excellent quotation on this subject from *SHORT HIST. OF THE PARL.* by R. W. Esq. as follows.

‘It was never known, that days were set apart for rewarding members of parliament with *places* and *employments*. He who looks upon the votes of the last day of the first session, will find almost nothing done, but new writs ordered in the room of parliament men, who had received their *wages* for their past year’s services. And to such a pitch were they come at last, that at the end of the second session, when the queen’s speech was made, and the session closed to all other intents and purposes, both houses are ordered to adjourn themselves for eighteen days, as if something extraordinary was still behind, that might require the sitting of the parliament. But when the day comes, nothing is done, but a 2d list of *loyal* members, preferred, is produced; and the vacancies of patriots turned courtiers, are, by new writs, ordered to be filled up; that these *dutiful* members might be ready at the beginning of next session, to *serve* those, who had so well rewarded their *past services*.’

E c 3

A motion

A motion was made by *Pulteney*, A. D. 1712, on occasion of the inactivity of *Ormond* in *Flanders*, that the queen be addressed to desire him to exert his utmost efforts towards obtaining peace. *St. John* in the house of commons, and *Oxford* in the house of peers (*per nobile fratrum!*) give assurances that all was well. The motion was changed into an address of entire confidence in the queen.

The surest way to destroy this government has always been thought to be, by its own hands, that is by the authority and power of parliament. For this purpose a confederacy by which the liberties of Europe had been so long sustained against the power of France, was broken to pieces by votes obtained in this house in the most extraordinary manner. *Lechmere's* speech in the house of commons, A. D. 1715.

*Lord Stanhope*, in his speech in the house of peers, A. D. 1718, sneers at the duke of *Argyle* for changing sides, according as he was in or out. The duke answers, that he voted with the ministry, when he thought they were right, and against them when wrong. If we could see our parliaments proceed in that impartial manner, we should have a better opinion of their integrity. On the contrary, in *Walpole's* times there was a set of members whose names never failed to be seen on the court side of every vote.

*Lord Chatham* in his speech on the stamp-act publicly accused a certain assembly of an over-ruling influence; and added the following: 'I know not how it is; but we observe a modesty in the house, that does

<sup>a</sup> DEB. COM. IV. 310.

<sup>b</sup> Ibid. VI. 54.

<sup>c</sup> DEB. LORDS, III. 76.

does not love to contradict a minister. I wish gentlemen would get the better of this modesty. If they do not, perhaps the collective body may begin to abate of its respect for the representative.

‘When the king and his ministers,’ says Sir J. Packington on the peerage bill, *A. D.* 1719, ‘thought fit to enter into a strict alliance with France, *A. D.* 1717, and thereby to give that ancient and irreconcilable enemy of England an opportunity to retrieve their low and desperate affairs, the commons did not oppose those measures. When his majesty judged it necessary either for the good of his subjects, or to secure some acquisitions in Germany, to declare war against Sweden, his faithful commons readily provided for those great expences. When afterwards it was thought proper to deprive the subjects of the beneficial trade to Spain by declaring war against that crown, and sending a fleet into the Mediterranean, to serve as ferry-boats for the emperor’s troops, the good-natured commons approved these wise counsels’.

The famous *South-sea* year exhibited a shocking scene of ministerial influence in parliament.

*Knight*, the villainous S. S. cashier, was suffered to escape, during his examination, and when seized at *Amber*, again let slip, and afterwards pardoned.

It was found, that 48 lords and commons were concerned in the S. S. scheme, and 300,000*l.* given in bribes to obtain an act of parliament allowing that company to erect itself into a bubble. ‘To sum up this whole affair in a few words (which would

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require

<sup>a</sup> DEB. COM. VIA 209.

<sup>b</sup> USE AND ABUSE OF PARL. I. 240.

<sup>c</sup> Ibid.

‘ require a volume to detect and expose as it deserves)  
 ‘ Though the mischief done by this infamous conspi-  
 ‘ racy was visible to the whole world ; and no screen  
 ‘ whatever was broad enough to cover the guilty from  
 ‘ the knowledge and resentments of the public ; the  
 ‘ public vengeance fell only upon Mr. *Aislaby* (who  
 ‘ was made the scape-goat of the ministry) upon the  
 ‘ directors, and upon the estate of Mr. *Craggs*, sen.  
 ‘ then in his grave, in the shape of expulsions, fines,  
 ‘ and disqualifications. As the majority without doors  
 ‘ had tasted of the calamity, there is but too much  
 ‘ reason to fear the majority within either partook of  
 ‘ the guilt, or were prevailed upon to join in com-  
 ‘ pounding the felony : Not only court lords but court  
 ‘ ladies had put in for a share of the spoil ; nor could  
 ‘ hardly any suspicion arise but what had some plau-  
 ‘ sible circumstances to warrant it.’

Three very salutary motions were, in the year 1728,  
 rejected by the commons, *viz.* 1. For a committee to  
 enquire what members had (what members had not,  
 would have been an easier task) places holden in trust  
 for them. 2. For preventing the translation of bishops.  
 3. For an address against the 1200 *Hessians* in *British*  
 pay<sup>a</sup>.

It has been the constant labour of ministers to per-  
 suade the people, that all those, who endeavour to  
 detect their villainous schemes, are disaffected, or  
 designing men, and that their views are not the public  
 good ; but their own advancement on the ruins of  
 those, whom they strive to bring into disgrace with the  
 public.

‘ If

‘ If ’ (says *Geo. II.* that is, the minister, in his speech, *A. D.* 1728) ‘ among other reasons, hopes given from hence of creating discontents and divisions among my subjects, and a prospect of seeing difficulties arise at home, have greatly encouraged them in their dilatory proceedings, I am persuaded that your known affection to me, and a just regard for your own honour and the interest and security of the nation, will determine you effectually to discourage the unnatural and injurious practices of some few who suggest the means of distressing their country, and afterwards clamour at the inconveniencies which they themselves have occasioned. It is more than probable, that foreign courts will wait now for the result of your deliberations, and as you may depend upon my constancy and steadiness, that no wicked and groundless suggestions or insinuations shall make me depart from my present purposes, so I entirely rely upon your wisdom and unanimity, &c.’

‘ However home these reflections were upon those who opposed the court measures, or how apparently soever tending to abridge the freedom of parliament, the majority of both houses betrayed no resentment; but on the contrary insisted upon thanks for and compliances with every article. When therefore, the minority in the house of commons stickled only for the alteration of a single word in the address, *restore* for *secure* the commerce, and supported their claim with unanswerable reasons, drawn from notorious facts, they were defeated by 249 voices against 87. Having given this earnest of their ductility and complaisance, we are not to wonder that the whole session was of a piece.’

Thus

Thus lord *Eymot*, *A. D.* 1751, 'From what has  
 ' been proposed by the two hon. gentlemen, who made  
 ' and seconded this motion,' [for an address of thanks  
 ' and general approbation of all measures] ' I should  
 ' have concluded, if they had not told me otherwise,  
 ' that they were acquainted with all the secrets of the  
 ' cabinet, and had seen all the instructions sent to our  
 ' ministers at foreign courts, as well as all the advices  
 ' received from them; for without such a thorough  
 ' knowledge, no man can, in my opinion, with honour  
 ' agree to what they have proposed; and what gives me  
 ' much more concern, I am afraid that such a thorough  
 ' knowledge would be so far from warranting such a  
 ' plumb approbation of all our foreign affairs, that  
 ' it would furnish us with sufficient reasons for  
 ' censuring every step that has been taken for some  
 ' time past. As to the authority, which it is pretended  
 ' we have from his majesty's speech from the throne,  
 ' every gentleman knows, that in this house we are  
 ' always to look upon that speech as the speech of the  
 ' minister; and I have read of very few ministers whose  
 ' assertions, though given in the most religious, as  
 ' well as solemn manner, I should depend upon with  
 ' respect to any fact relating to their own conduct.  
 ' Nor can I say that I have more dependence upon the  
 ' testimony of our present ministers, than I could ever  
 ' have upon that of any other. I must even be so free  
 ' as to say, that what I have heard this day renders me  
 ' a little more suspicious of their regard to truth, than  
 ' I ever was heretofore. I confess I have as little  
 ' acquaintance with the affairs of the cabinet as either  
 ' of the honourable gentlemen, or, I believe, as any  
 ' gentleman in the kingdom. I know nothing of  
 ' our foreign affairs, but what I have from our public  
 ' gazettes,

gazettes, and these I know are often cooked up in order to deceive; but suppose they were not, and suppose we had from this news-paper-knowledge sufficient authority for believing every thing which by this motion we are to profess we believe, would this be an authority sufficient for this house to found any resolution upon? Is it not inconsistent with the dignity of this house and with the uniform practice of our ancestors to found our resolutions upon any thing but parliamentary knowledge?"

He goes on to shew, that instead of general approbation of the measures pursued by the ministry, there was much room for censure; instead of congratulation, much cause for condolance. Our shipping seized by the Spaniards, our colonies attacked by the French; the continent of Europe rather embroiled than quieted by our interposition in their quarrels; a disgraceful treaty with Spain; the peace of Aix-la-Chapelle dishonourable and precarious; the nation insulting England every where; settling the neutral islands in direct violation of the treaty; imprudent and unprofitable alliances on the continent of Europe, with subsidies of endless expence to Britain, &c.

In Walpole's, and all such dirty times, the constant endeavour of the opposition has been to get at facts, proceedings, extracts, papers, &c. and the part of the ministerial crew, to negative all such motions. We accordingly find, in most sessions, six or eight such motions quashed; every one of which was highly reasonable, many of them such, that the house was obliged to proceed in the dark for want of necessary papers, which the minister well knew to be very unfit

for public inspection. Besides, it is a general rule with all men, who have indirect schemes in view, to conceal as many particulars as they can: for they are aware, that the knowledge of every particular furnishes their detectors with an advantage against them. He knew human nature well, who observed, that those whose deeds are evil, love darkness rather than light. But such statesmen give us authority to believe the very *worst* of their proceedings. They leave it to our imaginations to paint them as black as we please; and might as well let us know the worst; if it were not for the fear of impeachment, from which they are safe so long as they can keep legal proof out of our reach, though they leave us no room to doubt of their guilt by their care to conceal their practices from us.

When Sir *Geo. Byng's* instructions were called for by the opposition, *A. D.* 1721, and the question overruled by ministerial influence, several lords protested, ' Because not finding any instance, on search of the ' journals, we believe there is none wherein a motion ' for admirals instructions to be laid before the house ' has been denied; but on the contrary, there are ' many precedents of instructions of a like nature, ' and in stronger cases, as we conceive, addressed for ' by the house, and several in point for instructions ' given to admirals, particularly to Sir *George Rooke*, ' and Sir *Cloudesly Shovel*; nor does it seem to us at all ' material, whether the conduct of such admirals had ' or had not been blamed before such instructions ' were asked for, since the sight of instructions may ' be previously and absolutely necessary to inform the ' house whether their conduct be blameable or not, ' 2. Because we think it highly reasonable that these ' instruc-

' instructions should be laid before this house, upon  
 ' which the action of the *British* against the *Spanish*  
 ' fleet in the *Mediterranean*, was founded, without  
 ' any previous declaration of war, and even whilst a  
 ' *British* minister, a secretary of state, was amicably  
 ' treating at *Madrid*, which court might justly con-  
 ' clude itself secure from any hostile attack during  
 ' the continuance of such negotiations. 3. Because  
 ' till we have a sight of those instructions, and are  
 ' able to judge of the reasons, on which they are  
 ' founded; the war with *Spain*, in which that action  
 ' of our fleet involved us, does not appear to us so  
 ' justifiable as we could wish, and yet was plainly  
 ' prejudicial to the nation in sundry respects; for it  
 ' occasioned an entire interruption of our most valu-  
 ' able commerce with *Spain*, at a time when *Great*  
 ' *Britain* needed all the advantages of peace, to extri-  
 ' cate itself from that heavy national debt it lay under;  
 ' and as it deprived us of the friendship of *Spain*, not  
 ' easily to be retrieved, so it gave our rivals in trade an  
 ' opportunity to insinuate themselves into their affec-  
 ' tions; and, we conceive, that to the war alone is  
 ' owing the strict union there is at present between  
 ' the crowns of *France* and *Spain*, which it was the  
 ' interest of *Great Britain* to have kept always divided,  
 ' an union, which in its consequences may prove  
 ' fatal to these kingdoms. Nor does it appear that  
 ' *Great Britain* has had any fruits from this war be-  
 ' yond its being restored to the same trade we had  
 ' with *Spain* before we began it <sup>a</sup>.

A motion, *A. D.* 1732, for a committee to inquire  
 whether any members sate contrary to law, passes in  
 the negative <sup>b</sup>.

Motion for admitting admiral *Haddock's* instructions to be laid before the house, *A. D.* 1731, passes in the negative <sup>a</sup>.

A motion, *A. D.* 1739, for an account to be laid before the house of all ships of war built for government's service. Over-ruled. The people must have no satisfaction about the laying out of their money <sup>b</sup>.

The escape of the *French* fleet from Sir *J. Norris*, *A. D.* 1744, though he was much superior to them, was never enquired into, nor punished <sup>c</sup>.

Several lords, *A. D.* 1721, move for an address to the king, that lord *Carteret's* instructions for the court of *Sweden*, be laid before the house. Over-ruled. Several lords protested. Looked ill, and as if there was somewhat in them not fit to be seen <sup>d</sup>.

*Hor. Walpole* fairly opposes parliamentary enquiries into the conduct of ministers, as 'never to be set on foot, but when there is an absolute and apparent necessity for so doing' [—which there is at all times—]. There was no necessity, he thought, for any enquiry how the nation came to be, for 20 years together, insulted by a state so much inferior in power as *Spain* is allowed to be. And he afterwards alleges [what every boy of 10 years of age could have confuted] that the enquiry into the conduct of the tory ministry in the end of queen *Anne's* reign, was the cause of the rebellion in 1715. That therefore 'all such enquiries must be allowed to be of dangerous consequence to the tranquillity of the nation' [or to the minister, and his crew; witness the report of the  
secret

<sup>a</sup> *Deb. Com.* x. i.

<sup>b</sup> *Ibid.* xi. 231.

<sup>c</sup> *Contin. Rep.* viii. 32.

<sup>d</sup> *Deb. Lords.* iii. 190.

secret committee] ' and are generally set on foot by  
' personal enemies to those in the administration :  
Therefore, I suppose, if once a leviathan of power  
gets into the open sea of administration, he is to be  
allowed to wallow there as long as he pleases, and no  
bold hand must attempt to harpoon him.

Mr. *Waller* answered him well as follows : ' I shall  
' readily admit that the rights and privileges of parli-  
' ament have not of late years been so much disputed  
' by our ministers as they were formerly, and if it  
' were necessary I could give a very good reason for  
' this complaisance on the part of our ministers : but  
' the acknowledging of our right to enquire, will  
' signify but little, if it should ever come to be in the  
' power of ministers to prevail with a majority of this  
' house to put a negative upon every question that  
' tends to an enquiry. This, I hope, is not now our  
' case : but I must observe, that for many years past  
' either our ministers have been extremely good, or  
' our parliaments extremely complaisant, for there  
' has been no regular parliamentary enquiry into the  
' conduct of any one minister, whilst he continued  
' to be so ; and if no minister's conduct is ever to be  
' examined by parliament till after he is given up by  
' the crown, I cannot think that parliamentary en-  
' quiry will ever be of any great service to the nation.  
' The hon. gentleman that spoke last has been so good  
' as to acknowledge our right to enquire into the con-  
' duct of public affairs ; but if the arguments he has been  
' pleased to make use of upon this occasion be allowed to  
' be of any weight, I am sure no parliamentary en-  
' quiry into a minister's conduct can ever be set on  
' foot,

‘foot, because they will be of equal weight against every future enquiry, and every motion that may tend to enquiry.’

The *Walpolians* opposed all motions for enquiries into the conduct of the ministry during the negotiation with *Spain*, because such enquiries would occasion the producing of many papers, which would widen the breach, and make a war with *Spain* unavoidable. And afterwards, when war was actually declared, and there was no longer any pretence on that account for opposing an enquiry—then the ministerial party opposed all parliamentary enquiry, because the consequence would be the publication of the government’s plans for carrying on the war. (The plain *English* of all which is, ‘None of your enquiries.’)

Sir *John Barnard* argues on the same occasion admirably as follows<sup>a</sup>; ‘Sir, I have always attended my duty in this house, and always shall, as long as the people do me the honour of choosing me one of their representatives; but if we are never to enquire into the conduct of any minister, till that minister, or the crown, gives us leave to do so, our attending here, or our meeting together in this house, will be of very little signification to the people; for I may venture to prophesy that if ever we should have a house of commons so complaisant to the crown, as not to enquire into the conduct of ministers, without a *congé* for that purpose, such a house of commons will be as complaisant in every other respect, and will consequently agree to every law the crown may be pleased to propose, and to every grant the crown may be pleased to demand and insist on.

‘Like

<sup>a</sup> DEB. COM. XI. 350.

' Like some of the petty states in *France*, or *Germany*,  
' we may make humble remonstrances to our sove-  
' reign, and represent our inability to comply with  
' the free gift demanded of us; but when our sove-  
' reign, or his prime minister, says it must be done,  
' we may depend on it that such a house of commons  
' will always submit and agree to what is demanded  
' of them. The gentlemen of the other side of the  
' question should be cautious of mentioning any thing  
' that has been lately done in *Spain*: for there are  
' many things now done in that kingdom which neither  
' would or could be done if that country had pre-  
' served their antient freedom and independency; and  
' if the maxims these gentlemen have been pleased  
' to advance upon this occasion should ever be received  
' in this kingdom, our parliaments will soon become  
' as complaisant to the crown, and of as little use to  
' the people, as the cortes now are in *Spain*. A parlia-  
' mentary enquiry into a minister's conduct is, I find,  
' very much mistaken by the gentlemen who oppose  
' this question. Sir, it is not a trial: It is a sort of  
' debt which every minister owes to the public. A  
' minister is a sort of agent or steward for the public;  
' and is not every steward obliged to give an account  
' of his stewardship? When a lord happens, upon  
' the general view of his affairs, to be perfectly satis-  
' fied with the management of his steward, he may save  
' himself the trouble of examining, or appointing  
' others to examine, particularly into his steward's  
' conduct and accounts; and in the same manner,  
' when a nation happens, upon the general view of  
' public affairs, to be perfectly well satisfied with  
' the conduct of its ministers, there is no necessity  
' for a particular enquiry into their conduct. But

' will any gentleman say this is our case at present ?  
 ' Sir, our conduct, as members of this house, is not  
 ' in this case to be directed by our own opinion.  
 ' This house is not the lord to whom our ministers  
 ' are to answer for their conduct. The *people* are  
 ' the lord, to whom they are to answer, and we are  
 ' appointed by the people to examine into their con-  
 ' duct and accounts. Therefore, when the people in  
 ' general, or a great part of them, seem dissatisfied  
 ' with the conduct of public affairs, it is our duty,  
 ' whatever we ourselves may think, to make a strict  
 ' and impartial enquiry into the conduct of our mini-  
 ' sters, and to call for all papers that may be neces-  
 ' sary for that purpose. This is not subjecting our  
 ' ministers to a trial; it is only making them give  
 ' an account to the people of their stewardship, which  
 ' is an obligation they lay themselves under, when  
 ' they accept of being the ministers of the crown,  
 ' and consequently the stewards of the people; and  
 ' they ought to be ready to perform the obligation  
 ' when and as often as the people may please to require  
 ' it. I am sorry it is not performed much oftener  
 ' than has been usual of late years: I am sure the  
 ' oftener it is performed, the more it will redound to  
 ' the honour of a good administration, the better safe-  
 ' guard it will be to the people against the frauds and  
 ' oppressions of a bad one.'

' My lords, we must enquire' (says lord *Carteret*,  
 in the debate on the address, *A. D.* 1740<sup>a</sup> :) ' The  
 ' whole kingdom expects it at our hands. If we do  
 ' not, there will be ugly insinuations made against the  
 ' dignity and honour of this house both at home and  
 ' abroad. For this very reason we ought to agree

' to

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<sup>a</sup> DEB. LORDS, VII. 472.

' to the noble duke's motion in order to satisfy the  
 ' people as soon as possible, that in this session we will  
 ' do our duty. It is a duty we owe to our sovereign as  
 ' well as his people. If this proposition is refused, or set  
 ' aside by the previous question, I shall look upon it as  
 ' a refusal of any enquiry, and therefore, I must, in  
 ' my own vindication, protest. In the glorious and  
 ' successful administration that has been mentioned,  
 ' though the ministers were willing, as all ministers  
 ' are, to accept of all the panegyrics the parliament  
 ' was willing to bestow, yet being conscious of their  
 ' own innocence, they were too wise to oppose, or  
 ' endeavour to evade an enquiry. There was then  
 ' no mutual compact between a minister and his tools  
 ' to protect one another against an impartial enquiry,  
 ' and therefore in the year 1707, when a complaint  
 ' was brought into this house against the admiralty,  
 ' and an enquiry into the conduct of that board moved  
 ' for, though prince *George* himself was then at the  
 ' head of the admiralty, the ministers were so far from  
 ' opposing, that they promoted an enquiry. A com-  
 ' mittee was accordingly appointed, and a strict en-  
 ' quiry carried on. Whereupon it was found that  
 ' the prince's council had been guilty of great neglects  
 ' with regard to the appointing of cruizers and con-  
 ' voys for protecting our trade; for which, and for  
 ' several other neglects and misdemeanours alledged  
 ' against them, they were removed from that board,  
 ' without so much as an attempt made by the mini-  
 ' sters either to screen them from being found guilty,  
 ' or to protect them after they were.'

A motion was made, *A. D.* 1741, after *Walpole*  
 was out of power, for inquiry into the conduct of  
 affairs last 20 years<sup>a</sup>. Lord *Limerick*, who made

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the

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<sup>a</sup> DEB. COM. XIII. 140.

the motion, said, ' It is justly suspected, that during  
 ' the last twenty years, our ministers have taken most  
 ' unjustifiable methods for gaining a corrupt influence,  
 ' both at elections and in parliament. While our  
 ' constitution subsists in all its force, it is certain,  
 ' that the parliament, or at least this house of parlia-  
 ' ment, will always be of the same complexion with  
 ' the generality of the people. It is from this house,  
 ' his majesty is to know the sentiments as well as the  
 ' complaints of his people; therefore, when measures  
 ' generally disliked by the people, meet with an ap-  
 ' probation from this house, it may be justly suspected,  
 ' that some illegal methods have been taken for ob-  
 ' taining that approbation; and if upon a new elec-  
 ' tion a minister, who by his crimes or imprudence  
 ' has rendered himself generally obnoxious to the peo-  
 ' ple, should nevertheless get a majority of his friends,  
 ' or rather creatures, returned as members of this  
 ' house, we must suppose, that some illegal methods  
 ' were taken for obtaining those returns.'

A motion being made, *A. D.* 1741, by Mr. *Pulteney*, that the several papers presented to the house on *Monday*, and yesterday by Mr. Comptroller, be referred to a select committee, and that they do examine the same, and report to the house what they find material therein, it occasioned a great debate. Mr. *Pulteney* introduced his motion with the following speech.

' Mr. Speaker. I have always thought, that when  
 ' papers of state are called for by this house, as well as  
 ' when such papers are laid before us without being  
 ' called for; it should be with some sort of view or  
 ' design. We know very well, that when treaties,  
 ' estimates, or accounts are laid before us, without  
 ' being called for, it is generally with a design to  
 ' demand

‘ demand a sum of money, or vote of credit; and such  
‘ demands have of late years been usually complied with,  
‘ I believe, by most members of this house, without so  
‘ much as looking at any one of the papers or estimates  
‘ which were laid before us as the foundation of that  
‘ demand. This practice, Sir, must be allowed to be  
‘ a little extraordinary; but our late practice with  
‘ regard to those papers that are expressly called for,  
‘ has been much more surprizing; for after the papers  
‘ called for have been laid before us, they have been  
‘ ordered to lie upon the table, and there they have  
‘ generally lain without the least examination, as if  
‘ we had no view in calling for them, but that of en-  
‘ creasing the bulk of our votes by long lists of letters,  
‘ instructions and memorials. Experience has shewn,  
‘ that when such papers are ordered to lie upon the  
‘ table for the perusal of the members, they are seldom  
‘ perused with attention by any, and when they are  
‘ perused separately and distinctly by a few particular  
‘ members, none of them have authority enough to  
‘ prevail with the house to enter into a strict enquiry,  
‘ or to take into consideration the errors, mistakes, or  
‘ blunders, they may from such papers have dis-  
‘ covered. For this reason, Sir, and that the nation  
‘ may see we do not put the administration to the  
‘ trouble and expence of laying piles of state-papers  
‘ before us, without any view or design either for the  
‘ service or satisfaction of the public, I think, when  
‘ we call for any papers of importance, and they are  
‘ accordingly laid before us, they ought of course to  
‘ be referred to a select committee, that they may  
‘ examine them strictly, and report their remarks,  
‘ observations, or objections to the house; for the  
‘ examination of such a committee must always be

‘ more exact and full, and their report will have more  
 ‘ weight, than the examination or report of any single  
 ‘ member who peruses the papers upon our table with-  
 ‘ out any direction or authority from the house <sup>a</sup>.’

The multitude of commissioners and officers of the treasury, says lord *Digby* against *Walpole* <sup>b</sup>, ‘ not-  
 ‘ withstanding there being too great a number of both,  
 ‘ can no way endanger the discovery of any misappli-  
 ‘ cation of the public treasure, especially when the first  
 ‘ commissioner has the direction of the secretary’s office  
 ‘ in the kingdom. The other commissioners, and the  
 ‘ officers, either do not really know how the money  
 ‘ issued by them is applied, or else they will never make  
 ‘ a discovery, as long as they know that their first com-  
 ‘ missioner continues to be the chief favourite of the  
 ‘ crown. This has been the touch-stone of such dis-  
 ‘ coveries for many years past, and always will be so,  
 ‘ till we have a parliament independent and resolute  
 ‘ enough to pull a suspected minister even from behind  
 ‘ the throne itself.’

‘ I am not at all surprized,’ (says Mr. alderman  
*Heathcote* <sup>c</sup>) ‘ to hear the prerogatives of the crown  
 ‘ trumped up as a bar to any enquiry; for they have  
 ‘ always been set up by ministers against every enquiry  
 ‘ or prosecution that was ever proposed in parliament;  
 ‘ but this can never be of any weight with those who  
 ‘ can properly distinguish between the prerogatives of  
 ‘ the crown and the privileges of parliament. The  
 ‘ prerogatives of the crown, Sir, were all established  
 ‘ by our constitution for the public good; and, when  
 ‘ they are properly made use of, the parliament hath  
 ‘ nothing

<sup>a</sup> DEB. COM. XIII. 70.

<sup>b</sup> Ibid. 200.

<sup>c</sup> *See* DEB. COM. II. 268.

‘ nothing to do with them ; but when they are made a  
‘ wicked or an imprudent use of, the parliament hath  
‘ then a right to interfere, and to punish those who  
‘ advised the king to make such an use of the preroga-  
‘ tive. Thus the king has by his prerogative the sole  
‘ power of appointing all commanders both by sea and  
‘ land, and while proper persons are employed, the  
‘ parliament has no right to intermeddle ; but when  
‘ improper persons are appointed, and the public has  
‘ suffered, or is like to suffer, the parliament has a  
‘ right to interpose, and not only to remove the worth-  
‘ less persons so appointed, but to punish those who  
‘ advised the appointing of such. But, says the hon.  
‘ gentleman, if we once begin to enquire into and  
‘ punish those who advised the appointing of any gene-  
‘ ral or admiral, we shall of course soon begin to  
‘ assume to ourselves the power of appointing generals  
‘ and admirals. I wish the hon. gentleman would  
‘ re-consider this argument. If he does, he will find  
‘ it to be in short thus. If we do what we have a right  
‘ to do, we shall of course soon begin to do what we  
‘ have no right to do. This may be logick among  
‘ ministers of state ; but I am sure it would not be  
‘ allowed to pass for such among the under-graduates  
‘ of any of our universities. By this method of ar-  
‘ guing, Sir, we should put an end to one of the chief  
‘ uses of parliaments, which is to take care that none  
‘ of the prerogatives of the crown, which were all  
‘ designed for the safety of the people, shall be ever  
‘ turned towards their destruction ; but however much  
‘ this method of arguing may prevail among ministers  
‘ of state, I hope it will never be admitted by this  
‘ assembly. Here I hope the antient maxim of our  
‘ constitution will always prevail, That the king has

‘ many prerogatives to do good ; but not so much as  
 ‘ one to do evil <sup>a</sup>.’

On a motion, *A. D.* 1744, for enquiring into the  
 cause of the miscarriage at *Toulon*, *Mr. Cornwall* com-  
 plains, as follows, of the effect of ministerial influence  
 in parliament. ‘ Sir, My duty to my country, and  
 ‘ my duty to my nearest and dearest relation, force me  
 ‘ up, to second the motion, which the worthy gentle-  
 ‘ man behind me has so properly made you ; but I must  
 ‘ always call the day he has mentioned cruel, as well as  
 ‘ honourable : However,

*His saltem accumulem donis, et fungar inani*

*Munere—*

*VIRG.*

‘ And to say the truth, Sir, the hon. gentleman and I  
 ‘ have frequently before now intended to move a  
 ‘ question of this sort, but we have as often expected  
 ‘ it to come from more able gentlemen now in my eye,  
 ‘ as one condition, *sine qua non*, of their change of  
 ‘ situation. More than half of the session is lapsed,  
 ‘ and not one of these conditions is fulfilled. Sir,  
 ‘ almost all the money is given, not only all that the  
 ‘ most believing and most sanguine country gentleman  
 ‘ can raise, but all that the most devoted courtier can  
 ‘ ask : but not a single grievance has been redressed,  
 ‘ Should not these, Sir, and our supplies proceed *pari*  
 ‘ *passu* ? Let us therefore for shame make a beginning  
 ‘ with this ; and as it cannot be redressed but by en-  
 ‘ quiry, let us now exercise one of our fundamental  
 ‘ rights, which our infatuation, not corruption to be  
 ‘ sure, has so long suspended, that it is almost lost.  
 ‘ There is not a man in the nation, who does not know  
 ‘ in his private capacity that there has been great mis-  
 ‘ conduct,

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<sup>a</sup> *Alm. DEB. COM. II. 268.*

conduct, nay cowardice somewhere or other in the commanders of this *English* Armada. Should not then, Sir, even our ministers themselves have laid the whole before parliament? But which of us in his public capacity here has heard a word of it? Do none of our ministers recollect what was done when the duke of *York* commanded in the time of king *Charles* II.; and admiral *Ruffel* in that of king *William*? And these, Sir, were in some sort victories; for although in the former the *Dutch* burnt some of our ships at *Chatbam*; yet before they got back, we sunk and destroyed twenty of their capital ships, though superior to us in number; and although in the latter we destroyed sixteen of the *French* men of war, for which the admiral had the thanks of both houses, and was created earl of *Torrington*; yet, Sir, those princes were advised, unaddressed, to lay these matters upon your table, and I read in your journals, that censures were passed on particular parts of these transactions. But now, Sir, though more than a twelvemonth ago forty ships of *England* made with a difficulty a drawn battle against 30 of the combined fleets, yet the parliament is told nothing, nor has asked a single question concerning it. Therefore, for God's sake, Sir, for the sake of common sense, as well as justice and our own honour, let this enquiry be hastened, I shall, for the sake of form, trouble you with two subsequent motions, viz. That it may be a committee of the whole house, and that this house do, this day fortnight resolve itself into a committee of the whole house upon this matter. Our journals justify the form and method of proceeding; and if any gentleman has objections to the thing, I hope I shall be permitted to enter the lists with him; for though on any other subject I should be soon vanquished,

‘ quished, yet on this self-evident proposition I cannot  
 ‘ but think of obtaining a complete victory <sup>a</sup>.’

‘ Our chief business in this house,’ says Mr. *Carew*,  
*A. D.* 1745, ‘ is to keep a watchful eye over those,  
 ‘ who, under our sovereign, are the first springs of our  
 ‘ government, and to make an enquiry into their  
 ‘ conduct, as often as we find the least reason to  
 ‘ suspect that they have been prompted by some private  
 ‘ view, to do or advise any thing that was inconsistent  
 ‘ or of dangerous consequence to the public welfare.  
 ‘ This, I say, is our chief business: this is our duty;  
 ‘ and this duty we are the more obliged to perform  
 ‘ when it appears that our country has suffered, or is  
 ‘ like to suffer severely, by the misconduct or the bad  
 ‘ advice given by our ministers <sup>b</sup>.’

It is owing to the same fatal influence in the parliament of a neighbouring kingdom, that my much-honoured friend Sir *W. Mayne*, and his worthy adherents, have met with such opposition in their late most reasonable demand in parliament of papers, accounts, and transactions relating to the public concerns of that declining country <sup>c</sup>.

*A. D.* 1734, a message was brought to the commons from the king, desiring that the house would enable him to augment his army [against the windmills on the continent] if necessary, between the dissolution of that parliament and the sitting of a new one.

Sir *William Wyndham* spoke on this occasion as follows: ‘ Sir, I must own my surprize is as great as  
 ‘ my worthy friend’s, that a message of this nature  
 ‘ should be sent to this house so near to the close of

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‘ this

<sup>a</sup> *Alm. Deb. Com.* II. 177.

<sup>b</sup> *Ibid.* 258.

<sup>c</sup> See the *NEWS-PAPERS* of Nov. 1773.

‘ this session ; for whatever promises were or were not  
‘ made the first day of the session, I am very sure most  
‘ gentlemen expected that every thing of consequence  
‘ had been over long before this time ; and upon this  
‘ general presumption, a great many gentlemen who  
‘ have not the honour to be let into ministerial secrets,  
‘ are gone into the country ; it being at present more  
‘ necessary perhaps than usual for such gentlemen to  
‘ return to their respective countries, in order to  
‘ prevent their being bought and jobbed out of that  
‘ natural interest by which only they can expect to  
‘ enjoy the honour of representing their country in  
‘ parliament. But however necessary perhaps their  
‘ presence may be at this time, yet if time be allowed  
‘ them, I doubt not but most of them will think it  
‘ their duty to return to the service of their country  
‘ in this house when they hear that a matter of so very  
‘ great importance is to come before us ; it is I think,  
‘ Sir, a matter of the highest importance ; it is as my  
‘ worthy friend called it an absolute surrender of our  
‘ all, a surrender of the rights ; and a delegating the  
‘ power of parliament to the crown. This absolute  
‘ power, it is true, is now demanded but till next  
‘ session of parliament : but if it were not for the con-  
‘ fidence I repose in his present majesty, I should be  
‘ much afraid the next session would never be allowed  
‘ to meet unless upon the new election a majority of the  
‘ members should appear to be such as would be ready  
‘ to confirm or to renew that surrender. The honour-  
‘ able gentleman on the floor has told us, that it has  
‘ always been usual to shew so much respect to the  
‘ crown, as to take such messages as the present into  
‘ our consideration the very next day, and that he  
‘ remembers no instance to the contrary. It is true,  
‘ Sir,

‘ Sir, since I have sat in parliament I remember many,  
‘ but too many, messages something of this nature;  
‘ and I believe they have always been taken into con-  
‘ sideration the next day; but that did not proceed  
‘ so much from the respect we owe to the crown, as  
‘ from the cause of sending the message. There never  
‘ was a message of this kind sent from the crown but  
‘ when the nation was threatened with some such  
‘ thing as an immediate invasion or insurrection, which  
‘ in the body of the message was expressed to be the  
‘ reason or cause of sending such a message, and as in  
‘ such cases the near approach of the danger required  
‘ the immediate concerting of proper measures to  
‘ prevent it, we may suppose this was the chief rea-  
‘ son of their being so immediately taken into consi-  
‘ deration by this house. But as we are generally  
‘ apt to improve upon bad precedents, I will be bold  
‘ to say, that there never was such a message sent to  
‘ parliament as the present, either with respect to  
‘ its nature, to the reason of sending it, or to the  
‘ time of its being sent. By no message that ever  
‘ was sent to parliament, was there an absolute and  
‘ unlimited power demanded by the crown, which, to  
‘ every gentleman, must appear at first sight to be the  
‘ demand now made upon us; there was never such  
‘ a message sent to parliament, but what informed  
‘ us of some immediate danger impending and just  
‘ ready to fall upon the nation. By the present mes-  
‘ sage we are told of no such thing; nor do I believe  
‘ that any such thing can be pretended; and I remem-  
‘ ber no instance of a message any way resembling  
‘ this, that ever was sent to this house, the very end  
‘ of a session, and that session the last of a parliament.  
‘ I cannot indeed, Sir, form to myself a reason why  
‘ any

‘ any such message should have been at all sent; and  
 ‘ much less can I form a reason why it should have  
 ‘ been sent at such a remarkable time; therefore, I  
 ‘ must think that gentlemen will certainly expect to  
 ‘ be informed by those who are able to inform them,  
 ‘ what necessity there was for this message, and from  
 ‘ what sudden and, till now, unforeseen change in our  
 ‘ affairs, the sending of such a message has now become  
 ‘ more necessary than it was at any time during the  
 ‘ former part of the session,’ &c.

Many other members spoke unanswerably on the impropriety of such a message at such a time. But the ministry carried their point<sup>a</sup>.

When it was determined, *A. D.* 1736, that, to save the destruction of the people by spirituous liquors, certain burdens should be laid upon them, to enhance their price, and put them out of the reach of the vulgar; the *Walpolian* crew, ever attentive to money-matters, ever thirsting for the people’s life-blood, insisted, that 70,000 *l.* a year should be settled on the civil list, to make up for the deficiency, which would ensue, they said, upon the discouragement of spirituous liquors. It was urged, that the restraint laid on the use of spirituous liquors would improve all the revenues, and the civil list among the rest, because it would save the lives of multitudes, and there would be a greater consumption of beer, &c. and that, at most, parliament was only obliged to make good 43,000 *l.* the sum, which the duties on spirituous liquors were expected to raise, the 70,000 *l.* being a consequence of the people’s excess. But the courtiers insisted, that parliament had no business to enquire  
 ‘ whether

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<sup>a</sup> *DEB. COM. VIII. 212.*

‘ whether the duties granted to the civil list, produced  
 ‘ the expected sum of 800,000 *l.* a year, or a million;  
 ‘ but if they did really produce more, that surplus was  
 ‘ a sort of prize already granted to his majesty’ [that  
 is, to the ministry] ‘ and parliament neither ought,  
 ‘ nor could take any part of that surplus from him,  
 ‘ or make any alteration,’ [however necessary for the  
 safety of the people] ‘ by which that surplus might  
 ‘ be diminished, without making good the loss in  
 ‘ some other way.’ Thus these modest gentlemen  
 argued, that the ministry ought to have certain  
 revenues whole, that they might always have enough  
 to dole away among their crew, whether those reve-  
 nues produced a million, or two millions, annually,  
 and that the poor people are never to be gainers by  
 any improvement made in revenue-matters. All the  
 while, they shewed no anxiety, whether the sinking  
 fund might lose. No matter what becomes of the  
 public. This is the manner of construing, at court,  
 the old maxim, *Salus populi suprema lex*. It was  
 carried, however, for the 70,000 *l.*

*A. D.* 1738, the house goes up with an address of  
 thanks for the convention, which was so unpopular,  
 they were ashamed to print it, in the votes, as usual.  
 What a state of corruption the house must have been  
 in <sup>b</sup>!

‘ Laws, being the rules of government, ought (says  
 ‘ a *Chinese* emperor ‘,) to be faultless.’ By the same  
 rule, the law-makers ought to be faultless; not to  
 be the most lawless part of the people; not the great  
 cor-

<sup>a</sup> *DEB. COM. IX. 185.*

<sup>b</sup> *Ibid. x. 6.*

<sup>c</sup> *MOD. UNIV. HIST. VIII. 166.*

corruptors of the people. It is infinitely shameful to see the parents leading the children into wickedness.

'It is a maxim, Sir,' (says Sir *W. Wyndham* in the debate, *M. D.* 1738, *on the Spanish depredations*) 'that we ought not to speak ill of the dead; but this maxim relates to dead *men*, not to dead *parliaments*. Of parliaments we must say nothing amiss, while they are living; but after they are dead, we are allowed to tell the truth, and to give our sentiments of them freely. This parliament will soon come to die as others have done before it: It can live but a very few years longer; therefore let us consider what people will say of us when we are dead, if we should give the least reason to suspect that we approved of such a maxim. Some former parliaments seemed to speak, upon all occasions, the sense of ministers, and their sense only. But I am sure the character now generally given to those parliaments can be no encouragement for us to follow their example.' <sup>child</sup>

'The house of commons had' for many years scarce any other employment than receiving addresses and petitions concerning the *Spanish* depredations. — The arts and influence of the minister would have continued to defeat the voice of the nation and all the independent part of the parliament that called for war, had not the court of *Spain*—baffled all the complying arts made use of by the *British* minister, who would still have put off the war, had the court of *Madrid* condescended even to have common appearances by seeming disposed to grant satisfaction to the *British* nation. At last, the king prevailed for war fore against *Walpole's* inclination, who deserved

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<sup>a</sup> DEB. COM. x. 253.

<sup>b</sup> MOD. UNIV. HIST. xli. 411.

to lose his head for opposing the sense of the nation, though the sense of the nation had been wrong.

The duke of *Argyle* observed, *A. D.* 1739, in the debate on the pension-bill, that it was a little extraordinary, that the commons should pass the pension-bill, and very soon after reject a place-bill<sup>a</sup>. There is no doubt, but the principle of a place-bill is the same with that of a pension-bill; and that there could be no reason given for passing one, that was not equally good for passing the other. But this proceeding of the commons may be explained by supposing, that, when the place-bill was five times passed by the commons, and thrown out by the lords, there was an understanding between the houses, and the commons passed upon the certainty that the lords would reject; and that when the commons rejected, they had not settled matters with the other house. Otherwise we must look upon them as a set of drivellers acting upon no principle whatever.

‘Of late years, (says Mr. *Pulteney*<sup>b</sup>) gentlemen have been led, I do not know how, into a new method of proceeding in parliament, a method very different from what our ancestors did always observe. In former times the general or particular grievances were first examined, considered and redressed in parliament before they entered upon the granting of any supplies; but lately we have been led into a method of granting all the money necessary for the public service among the first things we do. The malt tax bill, the land tax bill, and such bills are now in every session the first things that appear upon the journals of this house; and when these things are finished, the gentlemen in the administration generally

<sup>a</sup> *DEB. COM. VI.* 398.

<sup>b</sup> *Ibid. VII.* 286.

generally look on the whole business of the session to be over. If this house should then enter upon any disagreeable enquiries into grievances, we might perhaps be told, that the season was too far spent; that it was necessary for gentlemen to return home to mind their private affairs; we might probably be obliged to defer to another session what the welfare of this nation required to be determined in the present. I hope gentlemen will consider this, and that they will again begin to follow the wise method observed by our ancestors, and keep some security in our own hands for our sitting till we have heard and redressed all the grievances of our fellow subjects.

Whatever we may think, my lords, here at home, says lord *Carteret*, *A. D.* 1739. I have good reason to believe that the frequency of such demands [votes of credit, civil list debts, &c.] and the ready compliance they have all met with, renders our constitution the common jest of every man abroad: Our pretences to liberty will, I fear, in a short time, become as much the ridicule of foreigners as our late conduct has already rendered our pretences to the holding of the balance of power in *Europe*. I was confirmed in this opinion by a question lately put to me by a *French* nobleman. He was a man of good sense, and yet he one day seriously asked me what difference there was between the parliament of *England* and the parliaments they have in *France*. I readily answered, and I hope I had some ground for saying, that in *France* the king makes their laws or edicts, and their parliaments must comply with whatever the king desires, but in *England* our laws are made by king and parliament, and our parliaments may refuse to comply with whatever the king desires.

' To which he as readily replied ; In your late history  
 ' we read of several extraordinary messages or demands  
 ' sent by your king to his parliament, no one of  
 ' which was ever refused ; and pray where is the  
 ' difference between an edict made by the king, and  
 ' an edict made by king and parliament, if the par-  
 ' liament never refuses what the king is pleased to  
 ' demand ; for our parliaments claim the privilege of  
 ' refusing as well as yours ; and if a trial were to be  
 ' made, such a refusal might perhaps be found as in-  
 ' significant in England as it now appears to be in  
 ' France. This I am apt to believe, my lords, is the  
 ' way of thinking in other countries as well as France ;  
 ' and if a general vote of credit and confidence should  
 ' once become a sort of customary compliment from  
 ' the parliament to the crown, at the end of every  
 ' session, or as often as our ministers may think fit to  
 ' desire it, this may become the way of thinking at  
 ' home, as well as abroad. If this should ever come  
 ' to be the case, our parliaments will of course become  
 ' despicable in the eyes of most of our own people ;  
 ' and when the form of an act of parliament begins  
 ' to be contemned, a proclamation may easily and  
 ' safely be substituted in its stead. It would indeed  
 ' be happy for the nation it were so, for when a par-  
 ' liament ceases to be a check upon ministers, it be-  
 ' comes an useless and unnecessary burden upon the  
 ' people. The representatives of the people in parlia-  
 ' ment must always be paid some way or other by the  
 ' people : If their wages are not paid openly and  
 ' fairly by their respective constituents, as they were  
 ' formerly, a majority of them may, in future times,  
 ' be always ready to accept of wages from the admini-  
 ' stration, which must at last come out of the pockets

of the people, and will fall with a much greater weight upon them; at the same time that it renders their representatives of no use to them. There is no way of preventing this, but by putting it out of the power of ministers to pay wages either to the electors or elected; and this can be no way done, but by strictly confining public grants to public services, according to the estimates previously delivered into parliament.

In all cases, says Mr. *Sanders* in the debate on the Spanish depredations, *A. D. 1739*, we ought, to distinguish carefully between the respect due to the crown and the regard that may be claimed by the ministers of the crown. To the crown we owe a great and a sincere regard; but to ministers none, but what they justly acquire by their conduct. Nay, a regard for the latter may often be inconsistent with that regard which is due to the former. Of late years parliaments have shewn a much greater respect to the ministers of the crown, than was usual in former ages; and I am under some apprehensions that by continuing to shew the same respect for a few years longer, we shall at last lose all that respect which the people of this kingdom ought to have for their parliaments. If this should ever happen to be our case, which God forbid! our happy constitution would be at an end. Our people could not then be governed by parliaments, or by any sort of civil government. They must be ruled by a standing army and a military government.

Several lords protested, *A. D. 1740*, against addressing the king on his speech, in particular terms.

G 8 2

Because

• Because it was the antient custom of the lords to  
 • present an immediate *general* address of thanks only,  
 • and to take time to consider the matters contained  
 • in the speech. That the house had then time to  
 • form a judgment and to give their advice to the  
 • crown. That a speech from the throne was justly  
 • considered as the act of ministers; that echoing back  
 • the particulars of a speech was a modern expedient  
 • to procure a precipitate approbation of measures that  
 • might not be approved upon better consideration.  
 • That an enquiry into the action of the last year,  
 • notwithstanding the immense expence of maintain-  
 • ing fleets and armies, was the proper business of  
 • that house, and would be a means of bringing the  
 • war to a happy conclusion, &c.

I might very properly insert under this head of  
*ministerial influence in the house*, the greatest part of two  
 whole articles I have collected, *viz. Ministers, and*  
*Peculation*, which together would make a volume, and  
 shall appear, abridged, in the sequel. But I will  
 only, as a sample, *in faciem*, give here the fol-  
 lowing charges brought against *Walpole*, that minister  
 of ministers, that corruptor of corruptors, by the lord  
*Digby, A. D. 1741*.

• That all the titles, honours, pensions, places, and  
 • other favours of the crown, have for twenty years  
 • past been disposed of to none but such as voted in  
 • parliament or at elections, according to the direction  
 • of the minister: That within these ten years several  
 • persons of high rank and great merit have been dis-  
 • missed from all the offices they held at the pleasure

• DEB. LORDS, VII. 480.

• DEB. COM. XIII. 198.

of the crown, for no other known or assignable reason, but because they opposed the minister in parliament: That officers in the army and navy, who got themselves seats in this house, and voted as they were bid, have gained preferments out of their rank, to the disappointment of officers of longer service and greater merit in their military capacity: These things are known to all men both within doors and without; and are of themselves a strong presumption, if not a certain proof, that our minister had a formed design to overthrow our constitution by establishing a corrupt influence in parliament.

*Pelham*, in defending *Walpole*, alleges, that it could not be proved, that he had corrupted the house of commons. He challenges any gentleman then in the house, to convict *Walpole* of requesting, or tempting him, or any one else, to vote against his conscience. But if Mr. *Sandy* had asked *Pelham*, how it came to pass, that there were in the house some hundreds of placemen; why places were given to so many parliament-men, above all others; and why those places were taken away, when members voted against the minister's measures?—what would he have answered? Had I a suit at law, and did I publicly scatter bank-notes among the jurymen, would there be any need of proof, that I meant to bias them? Thus clumsily do these ministerial fools endeavour to deceive us in a manner too gross to pass upon children or idiots.

Observe the modesty of *Walpole* himself in his own defence. As for the declamatory excursions that

' have been made about the alarm given to the people  
 ' by the great number of officers civil and military we  
 ' have at present, and about the danger our liberties  
 ' and constitution may be exposed to by corrupt prac-  
 ' tices, they may be, and I find they are introduced  
 ' into every debate; but as it would be an endless  
 ' task to answer them upon every occasion, all I shall  
 ' say to them upon this is, that we are here in the  
 ' proper place for enquiring into such things: If any  
 ' gentleman knows of an unnecessary office that has  
 ' been lately set up, or an unnecessary officer appoint-  
 ' ed: If any gentleman knows of any attack that has  
 ' been lately made or attempted upon our constitution;  
 ' or if any gentleman knows of any corrupt practices  
 ' lately introduced, or made use of, he may say,  
 ' as a member of this house, which is the grand in-  
 ' quest of the nation, he is in duty bound to take  
 ' notice of it to the house. But then he ought to be  
 ' particular. He ought to name the office, or offi-  
 ' cers, set up or appointed, the attack that has been  
 ' attempted, or the corrupt practice that has been made  
 ' use of; and he ought to move for an enquiry into  
 ' what he finds fault with; for by thus declaiming in  
 ' general, he can do no service to his country, he  
 ' can give the house no information, nor correct any  
 ' abuse. He does nothing but take up the time of  
 ' this house most unnecessarily; for he cannot expect  
 ' that such general declamations, though they may  
 ' please the galleries, should have any influence upon  
 ' any gentleman, who has the honour of being a  
 ' member of the house; much less can he expect their  
 ' having such an influence in this question, where the  
 ' vigorous prosecution of the war is at stake, than in

' any

any question of a different nature, that can come before us. A thorough-paced minister makes no more hesitation in carrying on his views at the peril of the nation, than at the risk of a few pounds electioneering money. An *Oxford* and a *Bolingbroke* must keep in place at all adventures. A *Walpole* must not resign, be the consequences what they will. It is necessary for me to cross the river, says *Alexander* to his captain, telling him that it was as much as his life was worth to attempt to pass the *Granada*; but it is not necessary for me to live. Many instances of this desperate tenaciousness at the hazard of the nation will appear in the article *Whigs* in the sequel. At present I only refer to one or two exhibitions of *Walpolian* influence of this kind, in the matters of *Hosier* and *Vernon*, &c.

In the year 1728, the commons voted the orders given to *Hosier* just, prudent, and necessary; while the nation, and all Europe knew, that the unfortunate admiral, and his brave men, were sacrificed to the villainous schemes of a minister. See the lords protest against this decision; for by thus deciding upon the affair of *Vernon*, the authors of the *Mop*. *Univ. Hist.* write thus: The nation was not at this time destitute of able naval commanders, but they were unfortunately in the interest of the minister, to whom they knew a vigorous war would be disagreeable, and most of them being members of parliament, had generally voted on his side. *Vernon*.

And of the affair of *Vernon*, the authors of the *Mop*. *Univ. Hist.* write thus: The nation was not at this time destitute of able naval commanders, but they were unfortunately in the interest of the minister, to whom they knew a vigorous war would be disagreeable, and most of them being members of parliament, had generally voted on his side. *Vernon*.

DEB. COM. XI. 195.

<sup>b</sup> USE AND ABUSE OF PARL. II. 362.

<sup>c</sup> Ibid. 370.

<sup>d</sup> MOD. UNIV. HIST. XLI. 412.

man, who was not at that time in parliament, had often spoke against the minister and his pacific schemes, and declared that he could take *Porto Bello* with 6 ships only. Therefore he was taken up by his words, the minister probably hoping, that he would have no better success than *Hofier*.

In the same manner, there is too much reason to conclude, that the duke of *Newcastle's* sending out the unfortunate *Byng*, &c. in 1756, so ill appointed, and with so insufficient a fleet against the *French* (if it had not happened, that a ship or two from *Admiral* made good a junction with Mr. *Byng*, his fleet had not been equal in number with the enemy's) there is, I say, too much reason to conclude, that this proceeding was in the confidence that cowardly ministry had of being secured by a corrupt parliament.

The three following strokes of *Walpole's* parliamentary legerdemain stand together in the USE AND ABUSE OF PARL. 1. in the throwing out a qualification act; quashing a motion for a committee to enquire, whether any members sat in the house contrary to laws; and a vote for *England's* paying the deficiencies of a *French* subsidy to *Denmark*.

*Walpole* was so pinched for money to gratify his harpys, that he had nothing to spare for war against *Spain*, which treated *England* for many years with an insolence, that would have ill become the greatest power in *Europe* to the meanest. At last, when the outcry of the nation forced him into a mockery of war, *Porto Bello*, and two *Caracca* ships were taken. Thus one man had it in his power to make this great nation universally contemptible; at the full exertion

of

of whose force in the late war, all Europe even now stands aghast. Such are the direful effects of ministerial influence in parliament. Accordingly *Pelham's* chief defence of *Walpole* is taken from the approbation given to his measures by parliament, at the same time that *Pelham* knew in his conscience, that parliament was filled with *Walpole's* creatures.

In the year 1742, the lords read, a second time, a bill for quieting corporations, by which all enquiry and prosecution against mayors, aldermen, and other officers of towns, and their official proceedings, were to be null and void, unless commenced within a certain limited time. This bill was occasioned by an appeal to the lords in consequence of violent means used by *Walpole* to compel the election of some of his creatures for *Weymouth*. And such was the influence of ministerial power, that the sentence of the inferior court was confirmed, though so far from being unexceptionable, that *Lord Toller*, on the occasion, expressed himself as follows:

Let us enquire, my lords, how we shall discharge the duty of judges by confirming the sentence which is now before us; let us examine, whether we shall act as the guardians of right, and the last resort of oppressed privilege, or whether we shall not appear instruments of ministerial tyranny and the mean reporters of the sentence of an inferior court. By confirming this sentence, we shall not only deprive a magistrate of his office which he holds by a claim, which has been thought just for more than a century, and in the exercise of which it appears reasonable to believe

<sup>a</sup> DEB. COM, XII. 80.

<sup>b</sup> DEB. LORDS, VIII. 495.

<sup>c</sup> Ibid. 482.

believe that he is disturbed not for misbehaviour, but  
 discharging his trust; but we shall entail upon the  
 town and corporation perpetual confusion and distur-  
 bance, evils which government was instituted to pre-  
 vent; we shall subject them for ever to the authority  
 of men untried and unexperienced; and by conse-  
 quence to all the mischiefs of ignorant, if not cor-  
 rupt administration. This, my lords, is sufficient  
 to determine my judgment; and, I hope, it will be  
 of equal weight in that of others. I shall not wil-  
 lingly interpret a charter, which is always an act  
 of royal favour, to the disadvantage of them to whom  
 it was granted; for I never heard of a charter of  
 corruption, or ignorance, or misery; and since it  
 is more happy to live without government, than to  
 be governed ill, I cannot believe that a charter like  
 this, as it is now interpreted, was ever given. I  
 therefore conclude the judgment erroneous, and once  
 more move that it may be reversed.

The duke of *Bedford* said, on this occasion,  
 The absurdities of this construction [of the char-  
 ter of the town of *Wymouth*] have already been  
 explained by the noble lord, and are, indeed, such  
 as cannot be aggravated, extenuated, or avoided.  
 But by admitting that sense of the charter which  
 has been for more than a century received, it is  
 evident, from experience, the only sure test in such  
 cases, that no inconveniences will follow. This  
 complaint of the violation of the charter did not  
 arise from any sense of inconveniences which it  
 produced, or of injuries which the inhabitants of  
 that place imagined themselves to receive from usur-  
 pation.

nation or tyranny: it was not promoted by any man  
 who thought himself unjustly debarred from autho-  
 rity, or by any body of men excluded from their  
 share in the government of the town. The prose-  
 cution, my lords, was the effect of ministerial re-  
 sentment: it was threatened to influence the election,  
 and was executed, not to humble the haughtiness  
 of guilt, but to crush the firmness of integrity;  
 to punish those who could not be terrified, and to  
 obtain for these the satisfaction of revenge, who  
 had lost the pleasures of success. For this purpose,  
 an attorney, that was a stranger to the borough,  
 was employed to harass the mayor with a prosecution,  
 defeated at the assizes, where men of plain sense were  
 to determine the cause, but successful in the court  
 of King's-bench, where law and subtilty were ad-  
 mitted. If such proceedings, my lords, should re-  
 ceive a sanction from this great assembly, how long  
 can any corporation hope to enjoy its privileges,  
 after having dared to reject the overtures of the  
 agents of a minister? Of what value will be the  
 immunities which our kings have bestowed upon  
 many cities of this kingdom as rewards of their  
 loyalty, as encouragements to trade, as marks of  
 honour and distinction, or for the more easy admi-  
 nistration of government? If prosecutions like this  
 be allowed, it will be at any time in the power of  
 a subtle villain to deprive them of their rights, to  
 disturb the exercise of lawful authority, to confound  
 all subordination, to fill the courts of justice with  
 expensive suits, and the whole with perplexity and  
 terror. Such, my lords, will be the injustice of con-  
 firming this sentence, and such the miseries which  
 that act of injustice will bring upon us; and there-

fore

fore I shall continue to oppose it; as I hope always to appear an advocate for right, and the happiness of my country.

Lord *Chesterfield* in the debate on the same bill for quieting corporations, exposes, with great humour, the craft of ministers, and ministerial tools, which is the same with that of lawyers, and churchmen, when any reformation is proposed. 'Suppose' (says he) 'I were a minister, and was resolved to overturn the liberties of my country, by getting into my hands the absolute direction of our cities and boroughs, with regard to their elections, would not I oppose such a bill as this? I certainly would, but bad politician as I am, I would not be so very weak as to oppose it directly. No, I would ingeniously acknowledge the danger. I would acknowledge the necessity of doing something to prevent it: I would mourn over the dangerous state of public liberty; but then I would take great care to raise as many objections as I could to every regulation proposed for its defence. I would exaggerate every difficulty and inconvenience we might be exposed to by such a regulation; and if no real dangers of this kind could be suggested, imaginary ones would supply their place. This, my lords, has always been, and will always be, the method taken by those who have designs against our liberties; in order to obstruct such regulations as might defeat their designs.'

Lord *Chesterfield* afterwards observes, that all the lords acknowledged the usefulness of such a bill, though they seemed unwilling to do any thing in it at present. If the bill was imperfect, it was natural to

commit it for improvement. He apprehends the house may lose credit by throwing it out. He fears that the bill would not secure any magistrate of a corporation in acting contrary to justice and the standing laws. That the worst consequence will be an unqualified person's being chosen a magistrate, or chosen in an irregular manner. But, if prosecution against him is commenced in due time, the bill would not protect him. 'A noble lord,' says he, 'was pleased to call our corporations the creatures of the crown. Too many of them, my lords, are so: I am for making them less so: and am therefore for having this bill passed into a law: for whatever bad consequences it may be attended with, I am sure they cannot be so bad as the consequences of our neglecting or delaying to make any regulation for guarding against or removing the danger to which you are at present exposed. It has been said, my lords, that no attempts have been lately made upon the freedom of our corporations: 'Tis true, no such violent attempts have been lately made as were made in former reigns; but even lately, and but very lately too, the freedom of our corporations has been nibbled at, and that nibbling has been made so manifest by the report I have mentioned, that I am surprised to hear the contrary asserted by any lord in this house. I must suppose that such lords have never read that report, and must therefore recommend it to their serious perusal: for they will thence see not only that corporations have been prosecuted at the expence of the crown, for the neglect of insignificant formalities; but that the cause of the prosecution's being brought, was expressly their refusing to choose such representatives as the minister directed.

directed. Was not this an attempt against the free-  
 dom of our corporations? My lords, it was an  
 attempt not only against the freedom of that par-  
 ticular corporation, but of all our corporations;  
 because the magistrates of every corporation in the  
 kingdom will from thence see the consequence of  
 their being disobedient to the commands of a mini-  
 ster; and the example must necessarily have most  
 fatal effect, if we do not, by some new law, remove  
 or lessen the dread of being exposed to the same  
 consequences. But suppose we had no such mani-  
 fest proof; suppose no such terrifying example had  
 lately been made; from the very nature of the thing,  
 we must be convinced, that such attempts may be  
 made. They have been made by all ministers in  
 time past; they will be made by all ministers in  
 time to come. It is natural for a minister to wish  
 to have his friend chosen to represent any city or  
 borough; rather than one he suspects to be his ene-  
 my. It is natural for him to make use of every  
 method he can safely practise in favour of his friend's  
 election. Whilst a corporation, or the magistrates  
 of a corporation, are under apprehensions of being  
 prosecuted, it is natural for them to be swayed by  
 those fears. There is no way of preventing this  
 practice, but by freeing a corporation from any  
 such apprehensions; and as this will, in a great mea-  
 sure, be the effect of the bill now before us, after  
 it has been properly amended in the committee, I  
 hope your lordships will agree to the question.  
 The earl of *Isly*, always faithful to the minist-  
 rial cause, laid great stress on the inroad which the  
 bill would make upon the king's, that is, the mini-  
 ster's royal prerogative; but he takes, according to  
 his

his laudable custom, in particular care to shew, that the subject's liberty was in no danger, and so turn all regard to it into ridicule. As the necessity of our having some such bill passed into a law, has been very much cryed up in this debate, as this necessity has been said to have been acknowledged by every lord who has spoke in the debate, I must take this opportunity to declare, that I am very far from being convinced of our being under any such necessity. I do not think the crown has as yet such an influence over our cities and boroughs as can be of any dangerous consequence; nor do I think, a minister can with any safety endeavour to acquire such an influence. A minister may have a personal, or a family interest in two or three boroughs; he cannot by himself alone represent them all, and to the borough where he does not stand himself, it is very natural for him to recommend a friend. That friend may, perhaps, be a gentleman never before known in the borough; but this is not peculiar to ministers; for we often find such gentlemen chosen by boroughs upon the recommendation of those who are known to be violent enemies to the minister. I do therefore, do not well know what is meant by court boroughs. All boroughs are so far I believe, and shires and counties, as well as boroughs. The only difference is, that some boroughs have their friends in court, and others want to have their friends in court. This, my lords, has always been the chief ground of the dispute, and most people are apt to think, or at least to say, the country is in danger when their friends happen to be out of court. The copy of the church being in danger, was formerly in the same use

of;

‘ of ; and when I was young, and attended this house.  
‘ behind the throne, I remember to have heard it  
‘ observed, as I thought very justly, by the ancestor of  
‘ a noble lord I have in my eye, that the only reason  
‘ he could think of for saying that the church was in  
‘ danger, was, because the earl of *Rochester* was out of  
‘ court. If a borough therefore chuses a courtier, it is  
‘ not because it is more a court borough than any other  
‘ borough, but because its friends happen at that time  
‘ to be in court, in like manner, when a borough  
‘ chuses such as are against the court, it is not because  
‘ it is more a country borough than any other, but  
‘ because its friends happen then to be out of court ;  
‘ and the choice made by the former may as little pro-  
‘ ceed from any undue influence, as the choice made  
‘ by the latter. But every borough that chuses a  
‘ courtier, or a friend to the minister, must, it seems,  
‘ be a creature of the crown in the sense put upon the  
‘ words by the noble lord who spoke last, in which, I  
‘ must say he made a very bad use, to call it by no  
‘ worse name, of an expression dropt from a noble  
‘ lord in this debate. The noble lord happened to  
‘ say that all corporations were the creatures of the  
‘ crown, and when he made use of the expression, I  
‘ believe every one of your lordships understood what  
‘ he meant. He certainly meant no more than that  
‘ all corporations were created by the crown, which is  
‘ true ; but the noble lord who spoke last, gave it a  
‘ turn as if he had meant that all corporations are the  
‘ slaves of the crown, and ready to receive directions  
‘ from the ministers of the crown, which is as far  
‘ from being true as it is far from being what he meant ;  
‘ for with regard to the election of their representa-  
‘ tives, I know of no way by which a minister can  
‘ compel

\* compel any one of them to chuse the candidate he  
 \* recommends. I am sure that of threatening a  
 \* borough with a new *assessments*, would be very far from  
 \* being effectual, and it would be very dangerous for  
 \* any minister to make use of such a method; conse-  
 \* quently I cannot as yet see the necessity of our passing  
 \* any such bill as the present; and if I did, I should  
 \* be for dropping this bill, which I think cannot be so  
 \* amended as to be of any use, in order to have a bill  
 \* brought in that might be of some service.

It was afterwards ordered, that a new bill should  
 be drawn up. Lord Romney reported the heads of it,  
 viz. 'That a reasonable period of time be fixed, after  
 \* the expiration of which the rights, franchises, and  
 \* liberties of any city, corporation, or borough, in  
 \* England or Wales, or of any members of any such  
 \* city, corporation, &c. or of any person exercising  
 \* any such office or franchise, shall not be called in  
 \* question by informations in *scutche of our warrants*,  
 \* writs of *mandamus*, or other proceedings for any in-  
 \* formality, irregularity, or defect in the nomination,  
 \* election, admission, or swearing of the mayor, bail-  
 \*iffs, or freemen, or of any other officer, or member  
 \* (by what name soever called) of any such city, cor-  
 \* poration, &c. who now are, or at any time here-  
 \* after, shall be in the actual possession or exercise of  
 \* any such office or franchise, nor of any forfeiture or  
 \* disability arising from such informality, irregularity  
 \* or defect, unless such informality, irregularity, or  
 \* defect, or such forfeiture, or disability shall be taken  
 \* advantage of by some prosecution commenced for  
 \* that purpose, within a certain time after the com-  
 \* mencement of the bill. And as to any such officer

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' or

" or member, as hereafter, within a certain num-  
 " ber of years to be limited in the bill, shall have  
 " been admitted into or shall have been in the actual  
 " possession or exercise of any such office or franchise  
 " as aforesaid; every such prosecution to be carried on  
 " with effect and due diligence; and in case of affected  
 " or unnecessary delay on the part of the prosecutor,  
 " to be dismissed with full costs. Such bill to contain  
 " proper provisors to prevent its invalidating any  
 " judgment already given, or any charter already  
 " granted and accepted, or any suit already instituted  
 " and still depending."

Lord Romney shewed the usefulness of such a bill  
 for defeating the efforts of ministerial power. That  
 members of corporations are commonly men of plain  
 understandings, not qualified to search into the mean-  
 ing of old charters; but willing to follow precedent;  
 and therefore their cases are more pitiable than blame-  
 able, when they happen to proceed in such a manner  
 as renders them obnoxious to the letter of the law.  
 That the charters themselves are often, through length  
 of time, and change of circumstances, become unfit  
 to be observed. That the meaning of corporation-  
 charters may not always be clear and consistent.  
 That it is difficult and expensive to solicit new  
 charters; and ministers are not inclinable to favour  
 them, because, like the lawyers, they find their ad-  
 vantage in the subject's uncertainty. That it is a  
 ticklish affair for a corporation to resign its charter,  
 when it is unknown what sort of one it shall have in  
 exchange. That therefore it is natural for the mem-  
 bers of corporations to modify their proceedings ac-  
 cording to what they find by experience to be best,

though in so doing they may often gradually deviate from the letter of their charter. That it will be no more than a reasonable indulgence to the subjects in a matter, in which the hazard is theirs, and not the government's, to fix a time, after which custom and precedent in corporations shall pass into establishment.

One would imagine, this was no such mighty matter of grace to confer on the good people. But the ministerial tools have no inclination to give up any degree of power. Therefore lord *Cholmondeley*, a faithful friend to court-power, opposed the bill. The houses agreeing to it, he said, would be acting in the dark, confirming practices, which they did not understand, and supporting magistrates, who obtained, and executed their offices, they knew not how, &c. [A staunch ministerial man is never for leaving any thing to the *people*; even their *own* affairs. He will have them always *feel*, that they have a government, that is, a *tyranny*, over them.] 'I am not much inclined, says he, to believe, when I see the law broken, that the *law* is to be blamed.' [I am sorry to differ from his lordship; but I should be very apt to suspect the wisdom of a law, if I saw it often broken by *sober* and *regular* people, such as the members of corporations commonly are.] Lord *Romney* said, the quieting bill would be an encouragement to transgressors. It would be confirming to the thief the possession of the goods he had stolen. [But it is remarkable, that his good lordship should not recollect, that by the law, as it *now* stands, there is a *limited* time, which being elapsed, many offences, more atrocious than violating a borough-charter, are not to be prosecuted, or punished.]

And the good lord chancellor *Hardwicke* (always true to the ministry) was afraid, the quieting bill might "produce more and greater evils, than those it was intended to cure." Whether it was a greater evil for corporations to be secure against ministerial molestation, than their being from time to time under prosecution, and by that means obliged to bring some grist to the law-mill, I leave to the reader to decide. In general, we know, that lawyers and churchmen are always against reformations. His good lordship "must suppose, that the distemper intended to be cured, or rather prevented, by the bill, was as yet imaginary." Good men always believe the best. Therefore his good lordship believed *Walpole* as innocent of molesting corporations, as of patriotism, or public spirit. But his good chancellorship seemed in the sequel of his speech, a little to forget his law-learning, through zeal against the bill. "If, says he, you limit the prescription to a *very short* time, it will be of the most dangerous consequence; and if you fix it at a *very long* term, the bill could have little or no effect." But what if we fix it at a term neither *very long*, nor *very short*? Besides, if his lordship's reasonings be good, the laws, by which (as above observed) a term is fixed, after which prosecutions for greater offences, than making free with a set of blind old charters, granted by the tyrannical *Stuarts*, are set aside; are *all bad*, and his lordship ought to have moved for their repeal. But your true ministerial men, like your true churchmen, never care how inconsistent they be with *themselves*, or with the principles of *common sense*; so they be orthodox, that is upon the *right*

right side, that is upon the side of power. He afterwards brings the execrable maxim, *nullum tempus occurrit regi*, now abolished, in support of his doctrine, and argues, that as no period stops the king's claim, so no period ought to tie up the minister's hands from molesting corporations, who elect anti-ministerial members. Then he comes to an important argument indeed. The bill 'might be said to be a sort of encroachment upon the prerogatives of the crown.' *Hinc illa lacryma!* The prerogatives of the crown are the ministry's *Palladium*; and are of infinitely more consequence (to them) than the quiet of ten thousand corporations. On this he argues in such a manner, that one would really think, he had forgot, that the *British* government was a *limited* monarchy. 'As the king (says he) has the sole right of establishing corporations, he likewise has a right to take care, that the corporation, as well as every officer and magistrate who belongs to it, shall observe the rules he has been pleased to prescribe to them in their charter; and to limit his power of prosecuting for any neglect, or non-observance, to a very short term, is an encroachment upon his right.' Have our limited kings any right uncontrollable by parliament to establish, or prescribe? His lordship shines afterwards more and more. 'I must farther observe, my lords, that this bill is really a sort of repeal of those laws, which have always been deemed the security of our church as by law established. When I say this, every lord must suppose I mean the corporation and test acts; for if this bill be passed into a law, the most rigid dissenter might get himself chosen an alderman of

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London,

‘*London*, or a magistrate of some other city or borough, without taking the oaths, or conforming to what is required by law for the *purity* of our church; and if he escapes being prosecuted during the time to be limited by this bill, he might continue in that magistracy during life, without ever conforming himself to the established church, for the act does not require his conforming after he is elected; and after the expiration of that time his election could not be declared void on account of his not having conformed within the year preceding his election; so that if this bill was passed into a law, all the magistrates in our cities or boroughs, who are chosen for life, might be such as openly frequented *conventicles*; for if they did not go there in their habits and ensigns of magistracy, they could neither be removed nor punished for the *affront* put upon the established church.’

What a noble spirit of liberty, how worthy of a lord chancellor of this great and free nation, and how suitable to the light and knowledge prevalent in this age, does this part of his lordship’s speech exhibit! ‘Our church as by law established!’ Aye—Our church!—our monopoly of fat livings, from which we have by law established, that all men shall be *excluded*, who will not declare assent and consent to the clear and *self-consistent* articles and creeds, and to the *passive-obedience-homilies*! And the ‘test and corporation acts!’ Aye—Those glorious acts, which breathe such a spirit of liberty!

‘If this bill be passed into a law, the most rigid dissenter—

O horrible! O horrible! most horrible!

*Shakesp.*

‘the

‘ the most rigid dissenter—

*Monstrum horrendum ingens, avidum, orco, Hecate,  
[atque Erebo ortum!*

‘ the most rigid dissenter—

“Ω ποτοι η μεγα πειρος Αχαιδα γασαν ναυτι.

‘ the most rigid dissenter—that tremendous being—in comparison with whom, old *Satan* is a good sort of a gentleman—who is so ineffably wicked, that he will not lay his prayers with a book in his hand, and will disclaim the authority of *men* over *Christ's* religion—might get himself—*horresco referens!*—chosen an ‘ alderman of *London!*’ And what greater misfortune than that, can the human mind frame the idea of, unless a comet were to come from the most distant regions of space, and—set the chancellor's full-bottomed wig on fire.

Lord *Sandwich* then went on to shew \*, That the worst effect of the bill would be, to oblige those who had a mind to prosecute for irregularities in corporations, to do it within a reasonable time, when proofs and defences could be brought. But this did not answer the views of ministers; their point is, to keep a rod over the people's head at all times. Lord *Sandwich* afterwards † puts the house in mind of what curious *Walpolian* proceedings had been detected by the secret committee relating to this very corporation, on a mere misinterpretation of their charter, or rather a different interpretation of it from the sense put upon it by the judges, which sense had not been found in it by the persons who first obtained it, nor by their successors, for 130 years.

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A. D.

\* DEB. LORDS, VIII. 520.

† Ibid. 521.

A. D. 1764, it was resolved by the house of commons, and agreed to by the house of lords, 'That  
 'privilege of parliament does not extend to the case of  
 'writing and publishing seditious libels, nor ought  
 'to obstruct the ordinary course of the laws in the  
 'speedy and effectual prosecution of so heinous and  
 'dangerous an offence.' Seventeen peers, among  
 which number was (*mirabile dictu!*) one bishop, protested, because the doctrine was new, unwarrantable, and unknown to the most tyrannical times; the established custom being, that privilege of parliament takes place in all cases, but treason, felony, breach of the peace, or refusing to obey a writ of *Habeas Corpus*; whereas the writing or publishing of what may be called (for any thing may be so called) a seditious libel, is neither treason, felony, breach of peace, nor disobedience to *Habeas Corpus*. The protesting peers alledged, that the resolution was sacrificing the freedom of parliament to ministerial power. That the resolution not only infringed the privilege of parliament, but tended to the restraint of every man's personal liberty, seeing it affirms, that all men may be bound to the peace for writing what may be called a seditious libel, by which every man's liberty is surrendered into the hands of a secretary of state, who is hereby empowered to pronounce any writing a seditious libel, and to imprison any person on this account, without council, evidence, or jury, while the person oppressed by power has no redress against the secretary of state, as he acts in the capacity of a judge. The protesting lords conclude with the following remarkable words; 'Privilege was not made  
 'to screen criminals, but to preserve the very being  
 'and life of parliament; for when our ancestors considered

considered that the law had lodged the great powers of arrest, indictment, and information in the crown; they saw the parliament would be undone, if during the time of privilege the royal process should be admitted in any misdemeanour whatsoever, therefore they excepted none. Where the abuse of power would be fatal, the power ought never to be given, because redress comes too late. A parliament under perpetual terror of imprisonment can neither be free, nor bold, nor honest; and if this privilege was once removed, the most important question might be irrecoverably lost, or carried by a sudden irruption of messengers let loose against the members half an hour before the debate. Lastly, as it has already been observed, the case of supposed libels is, above all others, the most dangerous and alarming to be left open to prosecution during the time of privilege. If the severity of the law touching libels, as it hath sometimes been laid down, be duly weighed, it must strike both houses of parliament with terror and dismay. The repetition of a libel, the delivery of it unread to another, is said to be a publication, nay, the bare possession of it has been deemed criminal, unless it is immediately destroyed or carried to a magistrate. Every lord of parliament then, who hath done this, who is falsely accused, nay, who is, though without any information, named in the secretary of state's warrant, has lost his privilege by this resolution, and lies at the mercy of that enemy to learning and liberty, the messenger of the press. For these and many other forcible reasons, we hold it highly unbecoming the dignity, gravity, and wisdom of the house of peers, as well as their justice, thus judicially to explain away and dimi-

‘with the privilege of their persons, founded in the  
 ‘wisdom of ages, declared with precision in our stand-  
 ‘ing orders, so repeatedly confirmed and hitherto  
 ‘preserved inviolable by the spirit of our ancestors,  
 ‘called to it only by the other house on a particular  
 ‘occasion, and to serve a particular purpose, *ex post*  
 ‘*facto, ex parte, et pendente lite*, in the courts below’.

The brave parliament, in which sate the *Humpdens* and the *Pym*s, would not allow this in the case of the 5 members; though the tyrant directly accused them of high treason, which cannot by law plead privilege. Such is the difference between an independent parliament and one ridden by a ministry.

But, *mem.* It was resolved in the house of commons, *A. D.* 1766, ‘That seizing the papers of the  
 ‘author, or supposed author, printer, or publisher of  
 ‘a libel is illegal, and the seizing the papers of a  
 ‘member of parliament on such pretence is likewise  
 ‘a breach of privilege’<sup>b</sup>. And afterwards a bill was  
 ordered in for restraining the issuing of warrants for  
 seizing papers, except in the cases of treason or felony,  
 under certain regulations. The title of the bill was  
 afterwards altered. It miscarried in the house of  
 lords.

The civil list was said to be in debt, *A. D.* 1768,  
 500,000 *l.* A message was sent from the king (i. e.  
 the ministry) to the house of commons, desiring that  
 they would make provision accordingly. It was urged  
 in favour of the demand, that the king had given up  
 to the nation his share of the captures in the late war  
 amounting to 700,000 *l.* The debates ran high;  
 but the demand was granted<sup>d</sup>.

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<sup>a</sup> *Ann. Deb. Com. A. D.* 1764.

<sup>b</sup> *Ibid.* vii. 183.

<sup>c</sup> *Ibid.* 185.

<sup>d</sup> *Lond. Mag.* 1769, p. 656.

The slavish complaisance of parliament to ministers was confessed in the year 1769, when the ministry sent over to the *American* governors a positive promise, that, on certain conditions, the odious taxing acts should be repealed\*. Such was the shameless servility of the house at that time, that when it was moved by the opposition to resolve, That disorders had prevailed in several of the colonies prejudicial to the commerce of the kingdom, and to the peace of the colonies; That a principal cause of these disorders was the ill-judged and inconsistent instructions given by persons in administration to the governors of some of the provinces in *North America*; That directing the dissolution of the assemblies of *North America*, upon their refusal to comply with certain proposals of government, operated as a menace injurious to the deliberative capacity of those assemblies, and tending to excite discontent, and produce unjustifiable combinations; That it was inconsistent, and tended to expose his majesty's councils to the contempt of the colonists, to dissolve the old assemblies for not disavowing certain combinations, at the same time, that new assemblies were suffered to sit, without disavowing or discountenancing the same combinations; That it was unwarrantable, of dangerous consequence, and a high breach of the privilege of the house of commons, for any person in administration to *promise* to the assemblies in *North America*, the interposition or influence of the king or his servants with the *house*, in order to a repeal of taxation-acts, or to pledge the faith of the crown to those assemblies, &c. when these resolutions were moved by the opposition, I say, such was the

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\* See *Ann. Deb. Com. VIII. 341, et pass.*

complaisance of the house for the ministry, whose conduct they would not suffer to be blamed, that every one of them was rejected; though there was not, probably, a man, woman, or child, in *Britain* who had the least doubt of their truth and justness.

Again in the year 1771, the house of commons, in a fit of complaisance for the court (if that can be called a *fit*, from which the patient is never clear) voted, that a member concerned in a libel should have no right to his privilege, thereby putting the guilt of a just satire on a corrupt court upon the same foot with that of felony, or breach of the peace, the only crimes, which before that time deprived a member of his privilege. By this resolution, it was observed, 'That any member supposed to have been concerned in composing, printing, or publishing a supposed libel might, by a mandate from court, be dragged from his seat.' And, according to a doctrine said to have been taught by certain judges of late, the guilt and punishment of this supposed libel, were not to come before the jury. They were only to find, whether the accused had any concern in the supposed libel, and the judges were to pass sentence. The members, who promoted this resolution, ought to have been more sure of the integrity of judges, than is possible, in the present weakness of human nature. These were attacks upon the very foundation of *liberty*.

The obsequiousness of parliament to the court, in the course of a few years, was shamefully gross. The nation tired out with raising money to be sunk in

*German*

<sup>a</sup> *Alm. Deb. Com.* VIII. 341.

<sup>b</sup> *Lond. Mag.* Nov. p. 536.

German wars for the defence of *Hanover*, forced Mr. *Pitt*, the great opposer of continental connexions, into power, in spite of *Geo. II.* who was thought to attend more to the interest of his pitiful electorate, than to that of the *British* empire. Then the commons were for holding the purse-strings tight. The king found means to bring over Mr. *Pitt* to favour his continental scheme. Then the commons raised almost 20 millions *per ann.* to send to *Germany*. *Geo. III.* not being so attached to *Germany* as his grandfather, was desirous of restoring peace, and stopping the blood-vein of the nation, before it should bleed to death. Then the commons were as obsequious to lord *Bute's* pacific measures, as they were before to Mr. *Pitt's* military quixotism. *Granville* thought proper to lay the stamp-tax on our *American* colonies. The worthy commons voted accordingly. *Granville's* successor in power thought proper to repeal the *American* stamp-act. The dutiful commons repeated it. Their followers thought it necessary to lay taxes of other kinds upon the colonies. The obstinacious commons were still occasional conformists.

Every speech from the throne, I mean, the minister's throne, at the end of every session, is filled with the king's entire approbation of all the proceedings of the sessions; whilst, if you look into the debates and protests, you see such manifold servility to the ministry, as it is impossible for any honest man to approve, say rather, to avoid execrating. And every column of every king's speech from the house of commons is a step of his administration to the skies. Look into the history of every reign, and you see innumerable misdeeds and blunders (to say nothing of corrupt abuses) committed by every succeeding administration. Thus

do our superiors endeavour to persuade us, by their words, that they are gods, while their actions shew them to be generally very silly, and very worthless mortals.

In the year 1770, there were as many compliments bandied between the court, and parliament, as ever. Yet at that time, almost every part of the *British* empire was known to be dissatisfied; the people of *England* enraged against their representatives, and petitioning the king for a new parliament; the people of *Ireland* offended on account of the prorogation of their parliament, because they would support the constitutional manner of taxation; and the colonists provoked by our legislature's taxing them as a test of their obedience.

In that same year, Sir *George Savile*, no party-brawler, said in the house of commons, 'This house hath betrayed the rights of the people.' Sir *Alex. Gilmour* called him to order. General *Conway* said the words were reprehensible. That it was insulting parliament, and that members had been sent to the Tower for such words, but as he believed they were spoken in anger, he only should wish that for the future the gentleman would be more cautious. Sir *George Savile* replied, he had not spoke in anger; that he never used any other words, when he mentioned the proceedings of the house upon the *Middlesex* election; and that he would always use the same words, whenever the same question was in agitation. Mr. serj. *Glynn* defended the words. He observed, that they were the only words in our language proper to express the idea of the thing; that if spoken of a thing that did not exist, no one would be more ready to vindicate the honour of parliament, in calling to

account the member who spoke them; but if they were founded on truth, it could not be the votes of a majority which could make them culpable. He then observed a good deal on what had been said the day before by a member (Mr. T. De Grey, brother to the attorney general, who abused the petitioners in general, calling them base born mechanics, and more wretched, not fit to petition the throne) that he was sorry to find some gentlemen supposed there was one law for gentlemen, and another for their inferiors. That the law knew nothing of gentlemen; that we, who represented, were chosen by, and derived our powers from those base born men; and that their privileges ought to be the care of the house, for on them depended our own,—our constitution. Mr. Edmund Burke, likewise, with great spirit, defended Sir George Savile, and called upon the ministry to punish Sir George, if the accusation was false; and said, "That if a false and unjust charge had been made, the gentleman who made it ought to be sent up the Tower;" but added, "that the ministers were conscious of the truth of the assertion, and therefore in a tame and cowardly manner crouched under it." He said, the people abhorred the present ministry, and asked the speaker if the chair did not tremble under him. Towards the conclusion of the debate, Sir George Savile stood up again and declared that he was as good as before; more so he could not be; and added from *Shakespeare*, "Bring me to the test, and the matter will re-word, which madness would gambol from;" and therefore, standing up in my place as member for the county of York, I do declare, that the house of commons has betrayed the rights of the nation. No notice was taken of the words.

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If opinion be the great engine, by which the few are able to govern the many, what shall we say of the wisdom of those governors, who by the practice of every foul and sordid art, and by openly shewing a total neglect of the public interest, teach the people to look upon their superiors as their worst enemies, or as clumsy blockheads, who do not know the first principles of their own profession?

However it is come to pass, the fact is certain, that in no age, or nation, ever was the people's opinion of their governors at a lower ebb, than has been lately seen in a certain country. In former times, when the characters of statesmen were attacked in print, the writers used caution, and either described them by their behaviour, in such a manner as to point them out without naming them, or if they were more particular, at most they only put initials and finals. Now our political and satirical writers make no hesitation in calling our highest characters by their faces, and with their names printed at full length, rogues, and whores, corruptors, plunderers, and enemies of their country.

This I acknowledge to be utterly inconsistent with decency. But still it marks strongly the sentiments of the people. And it must likewise be owned, that a great deal of the invective, that is thrown out in times of general dissatisfaction, is always aggravated, and often wholly groundless. But had our governors kept up a conduct venerable for integrity, and amiable for disinterested attachment to the public good, the people would never have thought of treating them in a manner so openly disrespectful. Even the gross-minded mob, when wrought up to the highest rage, would avoid throwing dirt upon a *Socrates*, a *Cato*, or a *Hampden*.

*Tum pietate gravem ac meritis si forte virum quem  
Asperare, silent, arrectisque auribus adsunt.*

VIRG.

There is (to borrow the thought of our inimitable *Shakespeare* concerning kings) such a majesty tiems in a man of worth, as slander dares not to look upon.

*Montesquieu* observes from *Polybius*, that the *Carthaginian* magistrates had lost their authority about the time of the second *Punic* war. *Polybius* gives no reason for this. But *Livy* accounts for it. *Hannibal*, he says, when he returned home, found, that the magistrates had been guilty of gross embezzlements of the public money. Was it to be wondered, that they lost their authority? Corrupt parliaments will ever be odious to all, but those who earn the wages of corruption. All kinds of duplicity are odious to the people. The prince of *Condé*, and duke of *Orleans*, pretended (to please the parliament of *Paris*) to be the implacable enemies of *Maxarins*, while they were carrying on a treaty with him at *St. Germain's en Laye*, directly contrary to the first article of their instructions from the parliament. *Maxarins* detects them. They lose both court and city.

'The people have already opposed us by their magistrates,' (says an eminent lawyer in the house of commons, on the lord mayor's protecting the printers against the serjeant of the house of commons, *A. D.* 1770, <sup>c</sup>) 'and they will oppose us farther by their juries; though, were we as much respected

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<sup>a</sup> L'ESPR. DES LOIX, I. 185.

<sup>b</sup> MOD. UNIV. HIST. XXV. 54.

<sup>c</sup> LOND. MAG. *March*, 1771, p. 244.

‘ as we are despised, as universally esteemed as we  
 ‘ are detested, the establishment of a tyranny in our-  
 ‘ selves’ [the assumed power of imprisoning their  
 constituents for supposed breach of privilege] ‘ who  
 ‘ are appointed for no purpose, but to repel it in  
 ‘ others, would expose us to the abhorrence of every  
 ‘ good *Englishman*.’

‘ We [the house of commons] are sufficiently ob-  
 ‘ noxious, sufficiently detestable to the nation already ;  
 ‘ and if we have no regard for the city magistrates, we  
 ‘ should at least have some little consideration for  
 ‘ ourselves.’ Speech of Sir *Geo. Saville* on the motion  
 for sending the lord mayor and alderman *Oliver* to  
 the Tower for protecting the printers against the ser-  
 jeant of the house of commons, *A. D.* 1770. \*

‘ Since I had the honour’ [says a speaker on the  
 same occasion] ‘ I should say, the dishonour, of  
 ‘ sitting in this house, I have been witness to many  
 ‘ strange, many infamous transactions.—What can  
 ‘ be your intention in attacking all honour and virtue ?  
 ‘ Do you mean to bring all men to a level with your-  
 ‘ selves, and to extirpate all honour and indepen-  
 ‘ dence ? Perhaps you imagine, a vote will settle the  
 ‘ whole controversy. Alas ! you are not aware, that  
 ‘ the manner, in which your vote is procured, is a  
 ‘ secret to no man. Listen. For if you are not  
 ‘ totally callous, if your consciences are not seared,  
 ‘ I will speak daggers to your souls, and wake you  
 ‘ to all the hells of guilty recollection. I will follow  
 ‘ you with whips and stings, through every maze of  
 ‘ your unexampled turpitude, and plant thorns under  
 ‘ the rose of ministerial approbation.’—‘ You have  
 ‘ flagrantly

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\* *LOND. MAG.* *March*, 1771, p. 181.

' flagrantly violated justice, and the law of the land,  
 ' and opened a door for anarchy and confusion.—  
 ' After assuming an arbitrary dominion over law and  
 ' justice, you issue orders, warrants, and proclama-  
 ' tions, against every opponent, and send prisoners  
 ' to your Bastile all those, who have the courage and  
 ' virtue to defend the freedom of their country. But  
 ' it is in vain, that you hope by fear and terror to  
 ' extinguish the native *British* fire. The more sacri-  
 ' fices, the more martyrs you make, the more nume-  
 ' rous the sons of liberty will become. They will  
 ' multiply like the hydra, and hurl vengeance on  
 ' your heads. Let others act as they will; while I  
 ' have a tongue, or an arm, they shall be free. And  
 ' that I may not be a witness of these monstrous pro-  
 ' ceedings, I will leave the house; nor do I doubt,  
 ' but every independent, every honest man, every  
 ' friend to *England* will follow me. These walls are  
 ' unholy, baleful, deadly, while a prostitute majo-  
 ' rity holds the bolt of parliamentary power, and  
 ' hurls its vengeance only upon the virtuous. To  
 ' yourselves, therefore, I consign you. Enjoy your  
 ' *pandæmonium*.' All the gentlemen in the opposi-  
 ' tion rose, as one man, and left the house.

When the duke of *Richmond*, *A. D.* 1773, moved,  
 that a message be sent to the house of commons,  
 requesting them to communicate to the lords the re-  
 ports, and other materials, upon which they had pro-  
 ceeded in passing the *East India* bill, the motion was  
 rejected. Their lordships knew which way they  
 were to vote, without seeing any materials. But the  
 directors of that great trading corporation do not hesi-

tate to foretel, that the bill will be the utter ruin of the company<sup>a</sup>. The same bill was carried in the house of commons, 131 against 21.

How deep the politics of the times were, may be judged by the following: *A. D.* 1773, it was, in the compass of only a fortnight, resolved in the house of commons, that all acquisitions made by *military force, belong to the state*. That to appropriate such acquisitions is *illegal*. That great sums *have been*, by such means, obtained from sovereign princes in *India* [by lord *Clive*]. And, that lord *Clive*, for his services in *India*, had *deserved* the presents he received, which were *usual*. Reconcile these resolutions who can—to any thing, but ministerial influence.

*A. D.* 1771, 'Mr. *C. Fox* vindicated the sending of lifts from the treasury to their friends, directing for whom they should ballot, as necessary for administration on all occasions<sup>b</sup>.'

Hear the sense of the city of *London* on the slavish complaisance of parliament to ministers. 'Representatives of the people are essential to the making of laws; and there is a time when it is demonstrable that' [the] 'men' [who sit in the house of commons] 'cease to be representatives. That time is now arrived. The present house of commons does not represent the people<sup>c</sup>.'

A remonstrance from the city was agreed on, *March* 11, 1773<sup>d</sup>, complaining of the neglect of the former, 'Our representatives, who were chosen to be the guardians

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<sup>a</sup> See the NEWS-PAPERS and MAGAZINES of the year.

<sup>b</sup> *Alm. DEB. COM.* ix. 306.

<sup>c</sup> CITY'S REMONSTR. to the king, *A. D.* 1770.

<sup>d</sup> See the NEWS-PAPERS of that date.

'guardians of our rights, have invaded our most sacred  
'privileges.' They mention the *Middlesex* election,  
the imprisoning of the lord mayor, and alderman *Oliver*,  
for 'not obeying the illegal mandates of an arbitrary  
'house of commons, and violating the solemn oaths  
'they had taken for the preservation of the franchises  
'of the capital. We recal (say they) to your ma-  
'jesty's remembrance with horror, that unparalleled  
'act of tyranny, the erasing a judicial record, in  
'order to stop the course of justice, to introduce a  
'system of power against right,' &c. They pray  
a dissolution of parliament, and a removal of bad  
ministers.

So much for a brief chronological deduction of  
ministerial and corrupt influence in parliament, in-  
tended to shew the necessity of a redress of this most  
ruinous of all grievances.

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From a due consideration of what this first volume  
alone exhibits, which is but a small part of the public  
abuses of the times, every thoughtful reader will see  
great reason for fears and apprehensions. The time to  
prevent public disorders is, Now, before the disorders  
begin. The beginning of the public disorders, we  
have reason to apprehend, will be, a diminution of the  
value of Stocks. It is the interest of every man in the  
*British* empire to prevent this diminution. The means  
of preventing it are, Associations for support of public  
credit. A model for these associations we have by  
looking back to the transactions of the year 1745.  
Public credit cannot sink, if the nation unites in sup-  
porting it; and the time for this union is NOW, before  
it begins to totter. Should it even be found, (which  
God forbid) that the usual ways and means are likely,  
through failure of commerce, &c. to come short of a  
sufficiency

sufficiency for paying the public creditors their full dividend, *England* has still great resources untouched, as taxing all legacies left by others than parents, husbands and wives, introducing by degrees Sir *Mantb. Decker's* method of taxation, and lessening by degrees the number of our present tax-gatherers, reducing the devouring army, taxing saddle-horses, and other articles of luxury, and all public diversions, reducing the enormous number, and retrenching the exorbitant incomes of places, &c. of all which more fully hereafter.

May a beam of celestial light directed by that efficacious voice, which of old said, Let there be light; irradiate the mind of Him, whom Divine Providence hath placed supreme in the government of this great empire; that he may see the things, which belong to his and the nation's peace, before they be for ever hid from his eyes. And when, guided by that heavenly light, he sets himself at the head of a plan for reforming these, and the other abuses, which are the disgrace, and naturally tend to bring on the ruin of the state; may he find his people willing to second those views, the execution of which will obtain for him the most illustrious of all titles, *viz.* Father of his country; and will make *Britain* the glory of all lands.



END of the FIRST VOLUME.